

# AMTRAK'S FINANCIAL CONDITION

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HEARING  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE  
ONE HUNDRED SEVENTH CONGRESS  
SECOND SESSION

**SPECIAL HEARING**  
JUNE 20, 2002—WASHINGTON, DC

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THURSDAY, JUNE 20, 2002

U.S. SENATE,  
SUBCOMMITTEE ON TRANSPORTATION  
AND RELATED AGENCIES,  
COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 1:35 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Byrd, Kohl, Durbin, Specter, and Hutchison.

### OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. This subcommittee will come to order.

Four months ago, this subcommittee held a hearing to examine Amtrak's precarious financial condition. As I said at that hearing, I want Amtrak to succeed. I believe that intercity passenger rail service plays a critical role in easing congestion in our country. I think it is an important travel option for the American public.

Americans hear about Amtrak's financial problems and want to know if they are going to be able to get on a train later this summer. We in Congress want Amtrak to succeed, but every time we offer a dollar more than the White House the President threatens a veto.

At our hearing 4 months ago, our witnesses included: George Warrington, then president of Amtrak, Michael Jackson, the Administration's Deputy Secretary of Transportation who serves on the Amtrak board of directors for Secretary Mineta. Mr. Jackson also serves as chairman of Amtrak's Audit Committee of the Board of Directors and as a member of the Board's Finance Committee.

At that hearing Mr. Jackson told us three things. First, Mr. Jackson said we could expect a clean audit opinion from Amtrak's auditors in a very short period of time. Second, he told us that we could soon expect the Administration to release its master plan for Amtrak, a plan that would embody the administration's vision for intercity passenger rail service across the Nation.

Finally, Mr. Jackson addressed funding for Amtrak. He admitted that President Bush's budget request for Amtrak of \$521 million would effectively gut the railroad and put it into bankruptcy. Mr. Jackson said the budget request was just a placeholder. He suggested that when the Bush Administration finally released its master plan the Administration might support a different level of funding for Amtrak.

That was almost 4 months ago. Some things have changed and some have not. Some promises have been kept and others have not.

First, despite Mr. Jackson's assurances, Amtrak's auditor has not released a clean audit opinion for Amtrak. As a result, Amtrak has lost access to the private capital markets. Amtrak's new president, David Gunn, now finds himself in a desperate struggle to keep the railroad out of bankruptcy. In fact, Amtrak is now weeks away from running out of cash entirely and perhaps days away from informing the States that rail service will be terminated.

This morning the Administration did release its master plan for Amtrak's future. I suspect that my calling this follow-up hearing created the necessary pressure on the Administration to finally release its plan.

But on that third issue of funding, the Administration has not changed its proposed budget for Amtrak by a single dollar. It still stands at \$521 million. By contrast, Amtrak maintains that it must have \$1.2 billion to continue operating next year.

As part of this hearing, I believe we need to discuss both the long-term and short-term prognosis for Amtrak. In the short term, we need to know what the Administration plans to do about Amtrak's pending financial crisis. Since the Bush Administration took office, this Subcommittee has provided Amtrak with every dollar the Administration has requested and then some. Even so, we are now informed that for the second year in a row the railroad is desperately short of cash. We hear the Administration may be planning to sign off on yet another financial transaction that will boost Amtrak's skyrocketing debt so it can crawl along for the duration of the fiscal year.

Last year Secretary Mineta signed off on a \$300 million financing deal that mortgaged off portions of Penn Station in New York City. As far as I can tell, that transaction just enabled the Administration to put their head \$300 million deeper into the sand while Amtrak went \$300 million deeper into debt.

This year we are told the Administration may propose that Amtrak borrow \$200 million against its future appropriation. Four months ago, Mr. Jackson told us that Secretary Mineta signed off on the Penn Station deal because he had no choice. It would not surprise me if the Administration takes the same posture with the upcoming proposed financing deal.

But the fact is the Administration does have a choice. The Administration could back off its opposition every time Congress tries to fund Amtrak at levels above the White House request. Right now we are in conference on an emergency supplemental appropriations bill that this Administration is complaining is too large. That bill includes \$55 million for Amtrak, not to bail out the railroad, but to rehabilitate damaged rail cars and to improve security. Rather than complain that this funding does not belong in this bill, the Administration should come forward with a formal request for us to add adequate funding in this bill to save Amtrak.

Unless the Administration changes its tune, Congress alone will not be able to save Amtrak because of the President's looming veto threat. Four months ago, President Bush's Deputy Transportation Secretary told us: "Secretary Mineta and I and the Federal Railroad Administrator all agree that intercity passenger rail is an in-

dispensable component of our transportation network.” If the Bush Administration is not prepared to ask for sufficient funds to maintain the intercity passenger rail service that Secretary Mineta and Mr. Jackson say is indispensable, then the Bush Administration needs to be prepared to explain to the American people why it will allow Amtrak to go bankrupt in the middle of the summer travel season. The Administration can explain why it would allow intercity passenger rail service to die when many of us in Congress are ready and willing to fund it.

So during this hearing we will focus on the immediate crisis, but we will also discuss the Administration’s long-term plan for Amtrak. Because it was announced just this morning, we do not yet have all the details. But certain things are clear from what we have heard. For the most part, the Bush Administration wants to dump the costs of intercity rail service onto the States. The States, however, are struggling to close budget shortfalls approaching \$40 billion.

At the same time, the Bush Administration is proposing to cut Federal highway funding to the States by \$8.6 billion. That is the largest reduction of any proposed cut in President Bush’s budget. My State of Washington ranks second only to California in the amount of State subsidy for Amtrak service. As I mentioned at our last hearing, I believe there must be equity in the way States are treated when it comes to Amtrak. There is no reason why States like mine must put up scarce funds for service that is barely adequate while the States in the Northeast Corridor put up almost nothing and receive the best service in the Nation.

As such, I will be suspect of any policy that treats the Northeast Corridor any differently than rail service elsewhere in this country. That said, however, it is not realistic to expect the States to pick up all of the costs of rail service any more than it is realistic to think that the States can pick up the costs of Medicare.

The Administration’s proposal calls for a portion of Amtrak to be privatized. It is not clear to me who will want to buy a company that is carrying over \$4 billion in debt. Perhaps the Administration knows someone who does. That is one of the many questions that we will get into this afternoon.

But I want to make it clear that unless the Administration changes its budget request for Amtrak both for the remainder of this year and for next year, there will be nothing to discuss other than the costs associated with liquidating the railroad.

Mr. Chairman, I will turn it over to you for an opening statement.

#### STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Thank you, Madam Chairman. I commend you for holding this hearing this afternoon on Amtrak’s financial condition. I commend you for your statement.

Amtrak is facing desperate financial times both in the short term and in the long term. As a Senator who arrived here long before the time we formed Amtrak in 1971, I can say that we have never done an adequate job of financing a first-rate National Passenger Railroad.

I am glad to see Amtrak's new president, David Gunn, here this afternoon. He is an old railroad man from way back. I hope that he and the Administration will remember what trains like the Cardinal mean to the rural communities they serve. Amtrak must not and should not be just about moving passengers between and among our largest cities.

I agree with you, Madam Chairman, that the Administration's posture regarding Amtrak has been most unfortunate. It reminds me of an experience that we had just this past Monday when Secretary Mineta announced the distribution of some \$93 million in grants for Seaport Security. When announcing these grants, Secretary Mineta stated: "Protecting seaports and port facilities against the threat of terrorism is imperative. Terrorist attacks have resulted in a renewed focus on security of our transportation systems and we at DOT are aggressively meeting these challenges on several fronts."

What Secretary Mineta failed to point out is that the Bush Administration did not request one single thin dime, not one thin dime, of the \$93 million in Port Security Grants. Secretary Mineta failed to point out that the Bush Administration is vigorously opposing the Senate-passed Supplemental Appropriations bill. That is where the money is, but the Administration vigorously opposes the Senate-passed Supplemental Appropriations bill. It includes additional Homeland Defense funds that the President did not request.

Now, do we live in a monarchy or do we live in a Republic? We live in a Republic, not a monarchy. We don't have to just pay attention to what the President proposes. The White House is not the seat of all wisdom in this country.

So when it is said, "well, the President did not request this," that falls on deaf ears so far as this West Virginia Senator is concerned. This is an equal branch here. This is not a subordinate branch to the Executive Branch. I have to keep reminding some of the people in the Executive Branch of that fact. This is not a subordinate branch.

Look in your Constitution. See what branch is provided first. I hold this Constitution in my hands. I do not sleep with it under my pillow like Alexander did with the Iliad. He slept with the Iliad under his pillow. I do not sleep with it under my pillow, but I carry it over my heart, right here. That tells me that this is an equal branch.

The Executive Branch, I do not care where you come from. You may come from Texas or California or West Virginia or Georgia or wherever. This Constitution still rules. Thank God for this Constitution. The Legislative Branch is an equal branch.

No President sends me here. No President can send me home. But the Senate can send a President home. That is what this Constitution says.

I note with great interest, the Supreme Court, all the judges, defend the prerogatives of the court, and they should. The President defends the prerogatives of the Executive Branch, and he should. The only branch that does not fully defend its own prerogatives is the Legislative Branch. Half the people in the Legislative Branch side with the President if he is a Republican President or if he is a Democratic President they side with him.

I say we do not live under a monarchy. I will side with the President when I support him and I will not side with him when I do not. It does not make any difference about his politics. I have opposed Democratic Presidents as well as Republican Presidents.

But this Administration apparently believes that it is the big dog and that the Legislative Branch is subordinate. I do not believe that.

So Mr. Mineta failed to point out that the Bush Administration is opposing this Supplemental Appropriations bill. It added \$3 billion in additional homeland defense money. That is for your defense, Mr. Gunn. That is for your defense, Mr. Rutter. Homeland defense, that is right here at home. The terrorists are among us. The enemy is among us.

So this Committee took the bull by the horns. When it could not get the Administration to take the muzzle off Mr. Ridge, we just went ahead without him. So we added \$3 billion for homeland defense. That is for your school children.

So Mr. Mineta failed to point out that \$200 million of these additional homeland defense funds are for the Port Security program, the Port Security grant program, the very grant that he announced so proudly on Monday.

When we look at Amtrak, we see much of the same pattern. I attended this Subcommittee's hearing on Amtrak back on March 7. I heard the Bush Administration officials make statements regarding the vital role of Amtrak in our national transportation system. I understand that Secretary Mineta reiterated those statements to the press, this morning.

But at the same time, the Bush Administration does not appear to be facing head-on the financial crisis that Amtrak now finds itself in. Moreover, the Bush Administration freely admits that it has requested a level of funding in 2003 that will put the railroad into certain bankruptcy.

This morning Secretary Mineta announced the Bush Administration's new long-range plan for Amtrak. Central to his plan is his desire to turn over to the States the costs of operating trains like the Cardinal, one of the Amtrak trains that presently serves my State. I think this proposal is deeply flawed and irresponsible. It comes at the same time the Bush Administration is proposing to cut highway funds also to the States, by almost \$8.6 billion or 27 percent. These are short-sighted proposals and they undermine the network of transportation that moves people and products throughout this country.

One of the responsibilities of the Federal Government is to provide those resources and services that individual citizens and individual States cannot provide for themselves. You say, well now, if West Virginia wants Amtrak Service; let West Virginia pay for it. Well, what about Virginia? Suppose Virginia decides not to pay for it and West Virginia does. Does our train stop at the border? What happens?

The Bush Administration walks away from National Passenger Rail Service. This is a responsibility that Congress addresses every year. The Administration's plan would take the word "National" out of "National Passenger Rail Service." It would jeopardize service to remote rural regions of the country.

My State is a good bit like Afghanistan. We do not have high-speed trains. We have mountains. So the Administration's plan would jeopardize service to remote rural regions. It is, as Benjamin Franklin would say, penny-wise but pound-foolish.

Mr. Gunn, I hope you are listening.

Madam Chairman, I am pleased that we will have the opportunity to press the Administration on precisely what their plans are for Amtrak. I hope we will have the opportunity to discuss what our rural communities can expect in terms of future rail service. My people mine the coal from the bowels of the Earth. We need trains. We do not have big airports. We cannot have big airports, so we have to depend upon train service.

For many of these communities in West Virginia and in other States, Amtrak represents the only public transportation connection to the rest of the Nation.

Thank you, Madam Chairman. I have some questions, but I will submit them for the record. I am also trying to get the House of Representatives to call a meeting of the Conference on that Supplemental Appropriations bill that you are talking about. We have not had a meeting yet. So thank you very much.

Thank you, Mr. Gunn. Thank you, may I say to the other distinguished witnesses.

Senator MURRAY. Thank you, Mr. Chairman.

Senator Hutchison, do you have an opening statement?

#### STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Thank you, Madam Chairman.

I want to say that I support Amtrak. I have since I came to the United States Senate, because I feel that rail is an important mode of transportation that should be active and vital in our country. We have aviation, we have highways, we have buses, and I think rail is a very important part of our multi-modal system to give all the options to our traveling public.

I also believe that the people who have opposed Amtrak say that we are continuing to subsidize Amtrak, as if this were something new in the transportation world. In fact, every rail system in the world is subsidized by government. In fact, our Government, our taxpayers, subsidize aviation and subsidize highways. But we have starved Amtrak. We have starved our rail system.

I am concerned that there has been a discrepancy in Amtrak's thinking since I have been in the United States Senate, that there is a Northeast Corridor and there is the rest of the system. I will continue to support Amtrak when we consider it a system, a National Passenger Rail System.

I have always been assured verbally that everyone at Amtrak believes that it is a system. But then every time we get in a crunch there is the announcement that the long haul routes are going to be eliminated. To me that is not a system, and I want it to be one system. I will support it if it is one system. I will not support it if it is two systems.

I hope that we can hash out the problems with Amtrak. Mr. Gunn, you certainly have taken on a major challenge at a point where you could have said no, I am not going to do it. I hope that the things that you have said that I have read in the paper are the

way you intend to try to save our system as one system, because I think it is vital for our country to have rail as a component. We have no more recent experience than 9–11 to see that people are looking for that alternative.

I think it can be a dynamite system. I also think we can make the States partners. I think it is a fair request on the part of the chairwoman that we have the States work with Amtrak in an equitable way. I also believe, however, that we have got to have a system that is worthy of all of our taxpayers' support.

So you have a daunting task, and if we have language that assures that we have one system that will rise or fall as a system equitable treatment of States working with the Federal Government and subsidies that are in line with subsidies that we give to other modes of transportation, and if we have the capability to save this track, then I want to be one of those that helps you do it. I hope that Mr. Rutter will do that as will all of the people that are working on this issue.

I do not think we can make it a State system. I do not think we can make it a private system. I think this is a national part of the transportation sufficiency of our country, and I want to support it if it can be done with language that protects all of the routes, not just the Northeast Corridor.

I do hope we can work in a positive and constructive way to make this a part of our system, accept it as that, make it equitable, and put it on good solid footing. It is going to be a long process, but one in which I think we can do some good for the future of our country if we work together in a way that says we are once and for all declaring Amtrak a national system.

Thank you.

Senator MURRAY. Senator Durbin.

#### STATEMENT OF SENATOR RICHARD J. DURBIN

Senator DURBIN. Thank you, Madam Chairman.

In the 1950's President Eisenhower had the vision and determination to build the Interstate Highway System and America has benefited greatly from that determination. Had President Eisenhower announced that he was going to leave it up to the individual States to decide their pieces of that system and whether they would fund them, does anyone in this room doubt that America would look a lot different today?

We know as we built that interstate highway system there were parts of it that were being utilized at far greater capacity than other parts. We said for the good of the Nation we are going to serve the entire Nation from one coast to the other. Is there anyone in this room that doubts that we are a better Nation because of that decision?

President Eisenhower had the vision and determination to say to America, "We are one people coast to coast, coming together to meet a national need."

I have the highest respect for our Transportation Secretary Norm Mineta, served with him in the House and have worked closely with him as a member first of the Clinton and now the Bush Cabinet. But I am saddened by the decision that he made today. This decision by the Administration to virtually abandon passenger rail

service in America is disastrous. It in fact has invited a train wreck which will unfortunately challenge our national goals of energy security, making certain that we have clean air and reduced highway congestion.

Make no mistake, the reason we are in this conversation is that 8 or 9 years ago the enemies of Amtrak, the critics of Amtrak, established a standard they knew could never be met. That standard as announced by the Secretary this morning was "operational self-sufficiency by the deadline of December 2002." They knew it could not be done. We knew it could not be done. It is not done in any country in the world.

We do not demand that standard of those who use our highways nor our airports. We generously subsidize them to the tune of \$30 billion a year for highways, so the trucking companies and families and individuals can have the benefit of our intercity and national highway system. We pay that money because we know it is critical for the economy of America.

And airports—what airlines could afford to come forward and pay for all of the money required to maintain our aviation system? They could not do it. They could not succeed. They depend on a Federal subsidy to the tune of about \$12 billion a year.

Yet when it comes to passenger rail the critics establish an impossible standard here of operational self-sufficiency and watch as passenger rail service diminishes, declines, and starts to die. Then they stand back and say: Well, we told you they could not make it. Well, of course they cannot make it without Federal assistance. There is no way to establish a national interstate system of passenger rail service without this kind of commitment from the Federal Government.

Now, this may be a good budgetary decision. Maybe it will save a couple hundred million dollars here and a couple hundred million dollars there. But make no mistake: Once Amtrak is gone as a passenger rail service system, it is not going to be duplicated or recreated in the future. It is gone and the capital investment that we have put into it is lost forever. It is the end of the line.

To think at this moment in time we passed an energy bill that was afraid to even address the question of fuel economy in vehicles—no new standards, no new requirements—and now we are eliminating Amtrak service across this country, while at the same time we are saying, you know, we should lessen our dependence on that Mideastern oil.

Well, I think we have to step back and be honest about this. We are making decisions here in Washington that will continue our dependence on Mideast oil, that will lessen the chances of energy security, and we are doing it in the name of balancing the budget. Well, when we face a national crisis we respond with the money necessary. We certainly did after September 11. But we will not have Amtrak to turn to.

A few days after September 11, I was stranded in Chicago, needing to get home to Springfield. Planes were not flying. Where did I go? I went to Union Station. I got on the Amtrak train. It was packed, packed with people just like myself, who knew where to go when you could not get to the airport and there were no planes to use. Where will those people go the next time there is a crisis, the

next time the airline system is threatened? They will have no place to turn. That is not what America is all about. It should not be what this Congress is all about.

I really stand here in full accord with my colleague from West Virginia. It is time for Members of Congress in both political parties to step forward. My colleague from Texas, my colleague from Pennsylvania, we all understand this. Amtrak is critical for the average people in our State, for the college students, the casual travelers, the people who just cannot afford to buy a car and drive and park it all afternoon and all weekend in Chicago. This is critical for their economic survival.

This argument is not about the railroads, steam engines, and nostalgia. This is about a vision, a vision of a country that sees high-speed passenger rail service as the key to energy security, affordable travel, and environmental improvement.

I hope that this committee will lead the way, Madam Chair, to reverse this bad decision.

Senator MURRAY. Senator Specter.

#### STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you, Madam Chairwoman.

When I picked up the morning paper I saw the story about the change in Amtrak. It had been my hope that Secretary Mineta and the Administration would come to Congress with a proposal as to what he wished to accomplish legislatively in this respect. The media accounts so far are very skeletal—a lot of questions, obviously, which are unanswered, and there could be a lot of angst, if not panic, in many places in this country about the future of Amtrak.

The reports talk about separating off the Northeast Corridor line. They talk about having States pay part of the expenses. They talk about the States making some determinations. But these are issues which seem to me might have been much better addressed, not in a speech to the U.S. Chamber of Commerce, but in the legislative proposal that was brought to the Congress, which has the authority and responsibility for making these decisions.

I recall 21 years ago when President Reagan's Administration came in and the first budget was submitted, which zeroed out Amtrak. It was nothing. Senator Baker, who was the Majority Leader, brought in Office of Management and Budget Director Stockman to a meeting with Senators from the Northeast Corridor. All of them told him what would happen if we did not have Amtrak.

The comment that I made was, "You would not be able to get through the Baltimore tunnel, you would not be able to land at National Airport." David Stockman said, "Well, that will be spun off; there will not be any problem." I said, "Have you ever seen a trusteeship proceeding? All the wheels will be rusted closed, before the trustee acts to spin off the Northeast Corridor. It's going to be absolute catastrophe."

Year by year, Amtrak has been sustained by a skin of the teeth proposition. We tried last year to get through a proposal on the High-Speed Rail Investment Act to raise \$12 billion over 10 years on a fancy bond arrangement, which I think would have provided for fiscal stability for Amtrak. That was turned down.

My colleagues have already made references to the subsidies which other modes of transportation have. All of that is well known. I believe that we have to do more to expand, not detract from, this service.

For many years I have advocated MAGLEV, the high-speed line which would run 300 miles an hour and travel from Philadelphia to Pittsburgh in 2 hours and 7 minutes, with intermediate stops in Lancaster, Harrisburg, Altoona, Johnstown, and Greensburg. There is competition now between Greensburg, Pennsylvania, and the Pittsburgh International Airport for \$950 million with Baltimore to Washington.

When my colleagues from Maryland have come and talked about the competition, I said we both ought to be doing that. The westerners come and complain: Why is there not a western project? I agree with them; there ought to be a line from Orange County to Las Vegas.

For MAGLEV to succeed, there has to be a national constituency. If America had the timidity in the nineteenth century which we have now, we never would have built the transcontinental rail system.

I believe you are going to find Congress determined to solve this problem by retaining rail service. We had a big to-do not long ago over the Cardinal. I am sorry that Senator Byrd has departed. The Cardinal goes through West Virginia, so we still have the Cardinal. I am not sure what is going to happen to the Cardinal, but we are going to consider West Virginia's needs as well as the needs of Dallas, Texas, or Pittsburgh and Philadelphia or Chicago.

But we want to work with the Administration and find an answer here, but we're going to have to know more about the proposal. I think we would have gotten off to a better start if we had seen the proposal come from the Department of Transportation instead of reading about the Secretary's speech.

Thank you, Madam Chairman.

Senator MURRAY. Thank you.

We have three witnesses who will be testifying before the committee this morning: the Honorable Allan Rutter, Administrator of the Federal Railroad Administration; Mr. David Gunn, President and Chief Executive Officer of the National Railroad Passenger Corporation; and finally, the Honorable Kenneth Mead, Inspector General, United States Department of Transportation.

Mr. Rutter, we will begin with you.

**STATEMENT OF HON. ALLAN RUTTER, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

**ACCOMPANIED BY HON. DONNA McLEAN, CHIEF FINANCIAL OFFICER, DEPARTMENT OF TRANSPORTATION**

Mr. RUTTER. Thank you, Chairman Murray and other members of the Subcommittee.

#### AMTRAK'S FISCAL DIFFICULTIES

Intercity passenger rail service is facing its most significant financial challenge since the passage of the Rail Passenger Service Act in 1970 created the National Railroad Passenger Corporation,

better known as Amtrak. Many in this room today face decisions that will have significant bearing over the short-term prospects of this form of transportation.

At the beginning of the fiscal year Amtrak's management projected that 2002 would be another in a series of fiscally challenging years. In response to that assessment, the board of directors directed management to cut sufficient costs from the company to assure that the corporation could operate through fiscal year 2002 with available financial resources.

As we all now know, that effort has not been successful. Just recently, Amtrak's new president affirmed the need for Amtrak to borrow some \$200 million from a private line of credit by the end of June to meet current year operating expenses or begin a process of shutting down operations for the remainder of the fiscal year. While drawing on this line of credit has been part of Amtrak's 2002 business plan, Amtrak is facing significant financial difficulties in the private market to secure this facility.

#### GUARANTEED LOAN

Amtrak has asked the administration to review options that can help the company solidify access to this line of credit. The administration has not completed review of Amtrak's application for a loan guarantee under the Railroad Rehabilitation and Improvement Financing Program to determine if Amtrak's application qualifies for assistance. However, we will work with Congress to review available options that can help put Amtrak on a more sound financial footing.

In reviewing this application, we are motivated by the goal of preserving Amtrak as a functioning entity for the near-term future while Congress and the Administration work to make improvements to Amtrak in particular and passenger rail in general.

This is the second time in just over 1 year that Amtrak has asked Secretary Mineta and the Department of Transportation to save it from falling into a financial abyss. However, expending significant effort by the Congress and the administration on an annual basis just in hope of assuring Amtrak's survival for another year is no way to run a railroad and reform, we believe, is necessary.

In my testimony to this subcommittee on March 7 of this year, I discussed the financial challenges facing Amtrak. The gap between Amtrak's expenses and revenues persists in the face of all manner of Amtrak initiatives to expand its business. Nationwide, market pressures from other modes impose a ceiling on Amtrak fares, which cover only about half of the corporation's costs. Exacerbating Amtrak's financial picture is its increasing debt load, with debt service both of principal and interest requiring about \$250 million this year and even greater amounts in the future.

#### BUSINESS MODEL PROBLEMS

Madam Chairman, Secretary Mineta and I believe that intercity passenger rail service is an important part of the Nation's transportation system, but it needs to be appropriately managed. However, the current business model for providing that service is unproductive, unsustainable, and needs to be changed. The Sub-

committee knows as well as the Department that positioning intercity passenger rail service for a successful future cannot be accomplished by merely authorizing funding at levels that far exceed the discretionary funding, financial resources available for transportation and which will never be appropriated.

Even if these funds were available, success could not be found by merely throwing billions of dollars at Amtrak as currently configured with just the hope that intercity passenger rail's problems will go away. Thirty years of experience should have taught us that a systematic rethinking of Amtrak's structure and public policy mandate is needed.

Positioning intercity passenger rail service for a successful future will require difficult choices and a commitment to develop a fiscally sound workable model. This morning Secretary Mineta outlined the Bush Administration's view of the reform needed to move intercity passenger rail to such a model. I have included the full statement in my written testimony for the record.

I will be pleased to answer any questions you have today about the vision we have outlined, as well as committing my availability to each member of this committee and to your staff to discuss at greater length some of the issues we have raised. Thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF ALLAN RUTTER

Chairman Murray and members of the Subcommittee; intercity passenger rail service is facing its most significant financial challenge since the passage of the Rail Passenger Service Act in 1970 created the National Railroad Passenger Corporation—better known as Amtrak. Many in this room today face decisions that will have significant bearing on the short-term prospects of this form of transportation.

At the beginning of this fiscal year, Amtrak's management projected that 2002 would be another in a series of fiscally challenging years. In response to that assessment the Board of Directors directed management to cut sufficient costs from the company to assure that the Corporation could operate through fiscal year 2002 with available financial resources.

As we all now know, that effort has not been successful. Just recently, Amtrak's new President affirmed the need for Amtrak to borrow some \$200 million from a private line of credit by the end of June to meet current-year operating expenses or begin a process of shutting down operations for the remainder of the fiscal year. While drawing on this line of credit has been a part of Amtrak's 2002 business plan, Amtrak is facing significant difficulties in the private market to secure this facility. Amtrak has asked the Administration to review options that can help the company solidify access to this line of credit. The Administration has not completed review of Amtrak's recent application under the Railroad Rehabilitation and Improvement Financing Program for a loan guarantee to determine if Amtrak qualifies for assistance. However, we will work with Congress to review available options that can help put Amtrak on a more sound financial footing.

This is the second time in just over 1 year that Amtrak has asked Secretary Mineta and the Department of Transportation to save Amtrak from falling into a financial abyss. However, expending significant effort by the Congress and the Administration on an annual basis just in hope of assuring Amtrak's survival for another year is no way to run a railroad and reform is necessary.

In my testimony to this Subcommittee on March 7 of this year, I discussed the financial challenges facing Amtrak. The gap between Amtrak's expenses and revenues persists in the face of all manner of Amtrak initiatives to expand its business. Nationwide, market pressures from other modes impose a ceiling on Amtrak fares which cover only about half the Corporation's costs. Exacerbating Amtrak's financial picture is its increasing debt load with debt service, both principal and interest requiring about \$250 million this year and even greater amounts in the future.

Madam Chairman, Secretary Mineta and the Department of Transportation believe that intercity rail passenger service can be an essential part of the Nation's

transportation system if appropriately managed. However, the current business model for providing that service is unproductive, unsustainable and needs to be changed. This Subcommittee knows as well as the Department that positioning intercity passenger rail service for a successful future cannot be accomplished by merely authorizing funding at levels that far exceed the discretionary Federal financial resources available for transportation and will never be appropriated. Even if these funds were available, success could not be found by merely throwing billions of dollars at Amtrak as presently configured with just the hope that intercity passenger rail's problems will go away. Thirty years of experience should have taught us that a systematic rethinking of Amtrak's structure and public policy mandate is required. Positioning intercity passenger rail service for a successful future will require difficult choices and a commitment to develop a fiscally-sound workable model.

This morning, Secretary Mineta outlined the Bush Administration's view of the reform needed to move intercity passenger rail to such a mode. Rather than try to summarize the Secretary's remarks and risk leaving some important piece of information out of this testimony, I wish to insert in this testimony the Secretary's speech verbatim:

#### THE FUTURE OF INTERCITY PASSENGER RAIL

*Purpose.*—I am here today to discuss the present state of intercity passenger rail and to outline a plan for creating a viable intercity passenger rail system in the United States.

*Amtrak's Crisis.*—Today Amtrak faces a profound financial crisis. While this is not news, it is a relatively newfound consensus at Amtrak itself, and among its supporters in Congress. Some recent history and a few facts provide useful context.

Just over a year ago, as a newly confirmed Secretary of Transportation, I reluctantly approved Amtrak's request to mortgage its key access rights to New York's Penn Station. That transaction was urgently required to meet Amtrak's payroll, a precondition for survival to the end of the fiscal year. In retrospect, that transaction was the last-gasp breath of a fiction—the fiction that Amtrak could achieve operational self-sufficiency by its statutory deadline of December 2002. By December of 2001, the Amtrak Reform Council had rendered a similar judgment, which upon publication had the unavoidable consequence of making Amtrak's financial condition even more challenging.

Congress created Amtrak in 1970 as a for-profit corporation. From this inception, policymakers have had an expectation that has proved elusive—the hope of operating a national passenger rail system with modest Federal support. Congress has made successive attempts at re-establishing this original premise, but the last 3 decades have proved that the Amtrak's model of a national network of passenger rail is just not sustainable without massive, continued Federal support.

To maintain the fiction that it could be self-sufficient and without making fundamental reform, over the past five years Amtrak sold, leased and mortgaged valuable assets to meet operating expenses. During the same period, it lacked adequate funds to maintain its capital infrastructure. A capital backlog of over \$6 billion is the result. Just recently, Amtrak's new President affirmed the need for Amtrak to borrow some \$200 million from a private line of credit by the end of June to meet current year operating expenses or begin a process of shutting down operations for the remainder of the fiscal year. The Administration is reviewing the viability of options for how Amtrak can solidify access to this line of credit, and Federal Railroad Administrator Allan Rutter will be testifying this afternoon before the Senate Appropriations Committee to report on those deliberations more fully at the conclusion of today's testimony. We are reviewing ways to preserve the opportunities for Congress and the Administration to adopt significant reforms to our national passenger rail policy, principles of which will be outlined in these remarks.

Unfortunately, Amtrak management have compounded problems for the railroad. Until recent months, Amtrak lacked fundamental financial controls even to determine the extent of route cross-subsidizations. Amtrak's performance was insufficiently transparent to the Congress, the Department of Transportation and the public. It has embraced numerous business plans—including some that have set it in competition with the freight railroads, upon whose tracks Amtrak operates on all routes outside the Northeast corridor. These plans have in large part been unsuccessful, and in the end, proved incapable of stemming a tide of red ink.

*De-linking Passenger Rail and High Speed Rail.*—At the same time, Amtrak's supporters in the Congress and the States have forged an ad hoc alliance with advocates for numerous high speed rail projects that could easily cost over \$200 billion over the next 20 years. Amtrak has enjoyed monopoly access to the freight rail tracks upon which most high speed rail projects would presumably run. Supporters

of Amtrak and of high speed rail have thus sought common cause. Legislation creating various means of bond financing, now under Congressional consideration, reflects this strategy—to intertwine inextricably the needs of Amtrak and high speed rail.

The first recommendation I make today is that we must have the clarity of mind and discipline to decide how and where to fund and operate intercity passenger rail while separately deciding whether to fund and operate high speed rail. It would be a great disservice to perpetuate the assumption that Amtrak's future and that of high speed rail are necessarily intertwined.

*Importance of Intercity Rail.*—I want to make sure that my remarks about Amtrak's failed business model and its financial crisis are not misunderstood. In a long career in Congress and now as Secretary of Transportation, I have not wavered from an important conviction: intercity passenger rail service is an important part of the Nation's transportation system.

The terrible events of last September 11 dramatically reaffirmed that fact, as passengers of grounded airlines surged to Amtrak. Amtrak is now carrying more passengers in the New York to Washington market than the air shuttles combined. I am encouraged by recent decisions of the Board of Directors of Amtrak to improve financial controls and to streamline the Amtrak management structure. These are welcome reforms. But there is so much more needed.

*Systematic Reform.*—Some who share my conviction about the potential of intercity passenger rail have made a further, unwarranted assertion—that Amtrak's problems can be fixed simply by a massive infusion of Federal dollars. The Bush Administration rejects that assertion. The country can ill afford to throw billions of Federal dollars at Amtrak and just hope its problems disappear. Thirty years' experience should teach us that merely hoping for better performance is a doomed approach. Systematic, root-and-branch rethinking of the Amtrak's structure and its public policy mandate is needed.

We offer our ideas as a contribution to the current public debate about Amtrak funding and reauthorization. We hope to broaden the debate, while providing a benchmark for gauging the acceptability of various prescriptions now being offered by Congress for an ailing intercity passenger rail system.

*Five Principles for Reform.*—The Administration's five principles for reform are:

Create a system driven by sound economics.

Require that Amtrak transition to a pure operating company.

Introduce carefully managed competition to provide higher quality rail services at reasonable prices.

Establish a long-term partnership between States and the Federal Government to support intercity passenger rail service.

Create an effective public partnership, after a reasonable transition, to manage the capital assets of the Northeast Corridor.

I will say a few words about each.

#### *Create a system driven by sound economics*

First, we believe that our intercity passenger rail network must transition to a system dictated by fundamental economics without Federal operating support. Prices and passengers—and not politics—should drive service. Amtrak's current route network provides too many services with limited market appeal at high operating costs to the Federal Government. These operating subsidies are almost universal among all routes, and are marked by escalating operating costs that absorb Federal support. While some in Congress are suggesting that Federal operating subsidies must be a fundamental precept of intercity passenger rail, we do not agree. At the same time, we recognize that it is unlikely that Amtrak could sustain a complete suspension of operating subsidies in 2003, so a phased reduction to zero operating subsidies is necessary.

#### *Require that Amtrak transition to a pure operating company*

Second, Amtrak should transition into a pure operating company. We believe a gradual separation of train operations from infrastructure ownership would shed better light on the true economics of passenger rail and help the public sector make better educated decisions about the future of intercity passenger rail, choices which more accurately reflect challenges and market opportunities. What I am talking about today is an Amtrak dedicated to operating passenger rail services for profit, but not responsible for investment in and maintenance of the passenger rail infrastructure.

Only in the Northeast Corridor does Amtrak combine an operating mission with a track infrastructure maintenance function. Yet since its trains account for only about 20 percent of corridor traffic, Amtrak's main operational focus in the corridor

is on controlling and maintaining that infrastructure. Throughout the remainder of the Amtrak system, the freight rails are responsible for all track infrastructure investment.

*Introduce carefully managed competition to provide higher quality rail services at reasonable prices*

Third, we must introduce market principles into intercity passenger rail services. The Transportation Department has provided extensive details about the fact that high unit costs undermine Amtrak's competitive position relative to other passenger modes. Indeed, currently less than one percent of all U.S. trips over 100 miles is by rail. We firmly believe that marketplace discipline could deliver higher quality service at competitive prices. This would entail competition for provision of certain routes, through a process that would assign passenger rail operating rights to a single operator in a corridor after a careful process overseen by the Federal Railroad Administration. We also see possibilities for alternative sourcing of system-wide support services such as reservations, food service and equipment maintenance, much as other transportation companies have done.

Some proposals not only fail to make progress in this direction, they actually make competition more difficult to achieve. A sustainable intercity passenger rail system must behave more like other private-sector transportation firms that move fixed costs into variable ones.

States outside the Northeast Corridor—where Amtrak currently runs on freight rail tracks—would be the first to transition to a system where intercity passenger rail services involve more competition under strict Federal supervision to maintain high safety standards and prevent capacity problems. The Northeast Corridor, with its unique issues and historic role of the Federal Government as the owner of the right-of-way, would make the transition to reform at a slower but still certain pace.

*Establish a long-term partnership between States and the Federal Government to support intercity passenger rail service*

Fourth, we believe a new intercity passenger rail policy should be based on a strong foundation of State and Federal planning that clearly identifies costs, benefits and funding approaches of passenger rail, designs services that complement and connect to other passenger modes, and thinks through practical implementation problems—such as environmental and operational issues—before launching projects.

We need to build our passenger rail network on a foundation of a partnership with the States. Today, many States are investing in intercity passenger rail, supporting operating costs of routes, funding new rolling stock, or assisting in the expansion of rail capacity to permit increased passenger operations. Several regions would like to consider upgrading their networks to accommodate high-speed intercity passenger rail.

The initiative for developing and operating any such new intercity passenger rail services should rest with the States or combinations of States. In planning and establishing such regional services, the States should be able to work with the Federal Government in a long-term partnership to invest in passenger rail infrastructure. We support the need for an ongoing Federal role in capital funding in partnership with States.

We also note that many high-speed rail plans lack the comprehensive justification that marks current State/Federal transportation planning at the metropolitan and statewide level. Congressional efforts to increase Federal capital funding—do not pay sufficient attention to the critical importance of planning and entrusting State and local transportation agencies with the management of these programs.

We believe that clear-eyed, comprehensive, financially responsible transportation planning, which is mandated for other surface transportation modes, is crucial to the future of new forms of passenger rail. Unless States are real partners in these endeavors, passenger rail advocates may champion services and facilities that may not fit within overall State transportation plans.

*Create an effective partnership, after a reasonable transition, to manage the capital assets of the Northeast Corridor*

I also believe that the ownership, management and control of the Northeast Corridor must be carefully evaluated. The multiple States and corridor users need time to identify practical solutions to these issues.

It will take extensive coordination—and a deliberate approach—to assess the mechanisms appropriate to manage this vital national asset. How will capital costs be allocated? How can the Federal Government and States assure that necessary capital investments will be funded? How is the capital backlog addressed? What is the best ownership structure to represent the multi-State interests? How do we adequately protect rights of access for transit? How will freight be moved on the cor-

ridor and what special needs does it have? These and many other such issues will be among the matters I plan to raise with our many stakeholders.

We may wish to consider a group modeled after the Defense Department's base realignment commission to finalize details of such a transition. During the transition, Amtrak would continue to operate the corridor. But perhaps at some intermediate juncture, it should be required to do so through a separate corporate entity formed for that purpose. Again, our goal should be to find lasting solutions to the thirty-year capital investment problem. This will take time, to be sure. But the job must be done.

*Expanding the Debate: An Invitation to Stakeholders.*—I recognize that reform along these lines will impact many different parties, and all stakeholders must be prepared to accept change if we are to develop a viable system of passenger rail. I want to invite these stakeholders to participate in the process of developing the details of a reform plan consistent with the general principles I have just set forth.

Our nation's governors and the States they lead are major participants in developing and implementing public infrastructure investments. So it should come as no surprise that a central element of the Administration's vision entails a partnership with the nation's governors and other State and local leaders to support intercity passenger rail. To promote a systematic deliberation about these important issues, today I invite the National Governors Association to appoint a Governors' task force to work with me to develop the details of this partnership. In particular, I also invite the Northeastern Governors to work with me on core corridor infrastructure issues.

We must also recognize the importance of forging equitable business relations with a private freight railroad industry that owns the majority of the rail tracks on which Amtrak runs. In recent years, the freight railroads have begun to face significant capacity issues that strain both passenger rail and freight rail. From Amtrak's perspective, its on-time performance is significantly affected by access delays not within Amtrak's control. The next authorization for intercity passenger rail—and plans for high speed rail expansion—must balance equitably the interests of passenger and freight rail operators. And we should consider further the impact of reform on Amtrak's workers.

For these reasons, the Federal Railroad Administration will soon sponsor an industry policy seminar to explore more carefully with Amtrak, the freight rails, rail labor and other stakeholders the issues raised by reauthorization. Proceedings of this meeting will be made available to policymakers and the public.

*Making Incremental Improvements: The Perfect is the Enemy of the Good.*—It will not be possible to solve the accumulated problems of thirty years in a single year. It would be folly, however, to wait any longer to make a start.

That is why last summer I called for early consideration of authorization for intercity passenger rail. The Bush Administration undertook an extensive evaluation of the core problems at Amtrak, and has formulated key principles for reform that I described here today. I am now personally persuaded that more debate and further consultation with transportation policymakers are needed. A full five-year authorization seems unlikely this year.

The vision I have outlined for the ongoing debate is incremental, yet would bring fundamental change. I look to the past to understand the challenge we face in the future, not to cast blame or stir rancor. Our long term vision would incorporate definitive performance milestones in a new authorization. It would impose statutory discipline and accountability in moving toward a viable system of intercity passenger rail service. It would preserve and strengthen a national asset.

Congress is presently considering passenger rail policy. I announce these principles today so that any Congressional action will be measured against this vision for the future. The Administration is concerned about recent Congressional actions that would increase funding for Amtrak without addressing any of the core problems that have produced this crisis. We believe this is the wrong approach. For this reason, the Administration opposes fiscal year 2003 Amtrak funding in excess of the \$521 million in our budget unless such an increase is accompanied by significant reforms consistent with the principles I have outlined.

If Congress is unable to enact longer term reauthorization for Amtrak this session, we feel strongly that any short-term authorization should include significant steps toward more systematic reform. This afternoon, Administrator Rutter can begin a process by which we engage Congress in identifying the reforms we believe should be made, including: increasing financial accountability, Federal oversight, and performance standards; limiting growing Federal operating subsidies; and mandating pilot projects in commercializing route services and train operation support services.

Let me close by reiterating that the moment has arrived to make fundamental, lasting changes in U.S. passenger rail policy. Such changes will no doubt engender resistance. In the past, such resistance has left us with unfulfilled hopes and timid policy-making.

I believe it is time to recognize the role that intercity passenger rail service can play in America's transportation system, to offer a comprehensive vision for the future of intercity passenger rail, and to set out a proposal that offers an alternative to the previous 30 years of Amtrak history—a vision worthy of a passenger rail system that plays a sustainable role in the national transportation network. I have tried to set forth core elements of such a vision here. The Bush Administration looks forward to refining this vision and discussing the implications of these policies with interested stakeholders.

Thank you for your attention.

Secretary Mineta's remarks set forth an ambitious agenda to place intercity passenger rail service on a sound footing for the future. The Secretary, I and the rest of the Department of Transportation team look forward to working with the Congress to achieve that goal. I would be happy to answer any questions you may have.

Senator MURRAY. Mr. Gunn.

**STATEMENT OF DAVID GUNN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL RAILROAD PASSENGER CORPORATION**

Mr. GUNN. Madam Chairwoman and members of the Subcommittee: I thank you for the opportunity to be here today. My name is David Gunn and I have been Amtrak's president for the past 5 weeks or years, I am not sure which. But I want you to know that when I accepted the position I did so with both eyes open, knowing that the company had some very significant and immediate problems. The company has lost credibility on many fronts and its management structure is ineffectual, was ineffectual. The company made bad decisions while pursuing an impossible goal of self-sufficiency mandated by Congress.

Despite these problems, Amtrak and the service it provides are well worth saving. How it has conducted its business over the last few years is something that must be changed immediately if we are to survive.

I have been in one form or another of the railway industry all my adult life and I firmly believe that rail service and public transit in general must assume a greater role in our lives if we wish to avoid a gradual loss of personal mobility. I have run larger organizations than Amtrak, but I do not recall in nearly 40 years of service taking the reins of a company with such immediate and significant problems. Let me tell you exactly where we are in getting through the immediate cash flow crisis and then I want to spend a few short moments on what I plan to do over the next 12 months.

As many of you know, we have been working since the beginning of the year with our auditors to close the books for fiscal year 2001 and receive an audit opinion that will allow us to have access to short-term borrowing. At this time, we have come to closure on Amtrak's fiscal year 2001 financial statements with the auditors, i.e., they are in accordance with GAAP. However, we have not come to closure with the auditors on a final opinion. This fact plus the fundamentals of our business means that our ability to obtain a short-term loan is in serious jeopardy.

We are pursuing other options at this time, before the company runs out of cash. Since time is of the essence, we notified the Administration that securing a loan guarantee is the only real option available to us to obtain short-term financing. On Monday we took

a proposal for a loan guarantee to the Federal Railroad Administration and since then we have been working closely with them to hammer out the details of the proposal.

If the Administration were unable or unwilling to give us a loan guarantee, then the only other options would be for Congress to direct the Secretary of Transportation to guarantee a loan or, as a last resort, to step in with short-term bridge financing for the balance of the fiscal year.

The window for fixing this problem in this way is short. Unless we are able to secure access to these funds either through a loan guarantee or another form of funding, I will have no choice but to announce a shutdown of the entire system. We are in the process of contingency planning and hope that it does not come to that. However, I have to reinforce that our cash position will run out, or our cash will run out, in July and we have but the next few days to find a resolution to this short-term problem.

Senator Murray and members of the Subcommittee, I come from a place called Cape Breton Island, which is in Nova Scotia. I have to give a little plug. It is remote, but I do get newspapers out of Halifax and Toronto. Even with just that source of information, I knew last summer that Amtrak was in deep trouble. When you have to mortgage your busiest station just to make payroll, you are only a step or two before the precipice.

The announcement in February threatening to cut back long haul services was not based on reality, since Amtrak's problems will not be solved by such action.

My approach to running Amtrak hinges on the fact that I cannot imagine a country such as ours without a National Railroad Passenger System. That means I would expect that Amtrak will be around for a while. Second, the basic model, Amtrak, can and should work, and I am referring here to Amtrak as a management company managing passenger services. Third, no passenger system in the world operates without some form of governmental subsidy, which means Amtrak will, A, never be profitable, and B, will always need, just like every other mode of passenger transportation, some form of public investment or subsidy.

Lastly, no amount of councils or commissions or study groups, panels or symposiums, will find a painless answer to what to do about Amtrak. Recent proposals to privatize or restructure are exercises in problem avoidance. The Federal Government must decide what role rail should play, just as it does with highways, air, and waterways.

Now, about Amtrak. I am what most people would call a very traditional manager. I believe in small, technically competent management staffs with clear lines of authority and responsibility. I believe Amtrak can be a good operator of rail passenger services. I have gotten around quite a bit in my 5 weeks and I have found the employees to be friendly and dedicated, but very concerned about the railroad and their future. Despite years of equipment and infrastructure maintenance deferrals, our employees have persevered.

Unfortunately, the plant and equipment for the most part suffers from neglect. Deferrals of maintenance and elimination of heavy overhauls have resulted in a multitude of problems. In addition, we have nearly 100 cars and locomotives in wreck and repair, what we

call wreck-repair status—they are badly damaged—the majority of which cars are used on long distance trains. With a fleet of 1500 cars, this is about one in 15 cars out of service, some of which have been so since the early 1990's. This must change.

Also, we have begun to reduce the number of consultants on the payroll. I have never been a fan of using consultants. My approach has been to build a strong management team that can solve and work through its own problems.

I will streamline the organization and establish clear lines of authority and responsibility. The first thing I asked for when I arrived was the preparation of organization charts. I found we had nearly 85 people with the titles of vice president. Many of these titles had adjectives like "senior," "executive," or "regional" in front of the word "vice president." This has to change to get to a streamlined, functional organization.

I found a budget process not based on the actual needs of the operation and it was very inefficient as a tool to enforce fiscal discipline throughout the company. The budget was a document based on unrealistic assumptions regarding revenue and expenses. There was inadequate control over staffing.

Next year we will take a different approach by building a budget from the ground up, a zero-based budget approach. It will be detailed, based upon authorized positions and planned activities. In other words, if we are going to rebuild a piece of track we want to know where and when, how much it costs. You may choose not to fund everything we ask for, but you will at least know what is needed and what you are funding.

Driving the budget process, we will look at every route and service to improve efficiencies and cost recovery. Most of our trains lose money and they always will, but we can run them more efficiently. This is an achievable goal. Pursuing self-sufficiency was not. We will share our budget with you in detail and we will report monthly on our progress.

I have found in life that anything worthwhile comes through setting realistic goals and then dedication and initiative and loyalty to the company to accomplish those goals. In pursuing Congressionally mandated self-sufficiency, the company tried too many initiatives simultaneously and pursued an array of financing arrangements to make up for budget shortfalls. The debt the company now carries is just under \$4 billion and it is unsustainable.

Obviously, we cannot rewrite history. What we can do is learn from our mistakes, go back to basics, and move forward. I will return Amtrak to the basics, i.e., the running of a railroad.

Finally, while all our focus has been to resolve the immediate short-term budget crisis, we have begun to plan for the fiscal year 2003 budget process. To this end, I cannot emphasize how important it is for Congress to fully fund Amtrak's \$1.2 billion request for fiscal 2003. This level of funding should allow us to begin work that I have outlined in this testimony and start to rebuild the railroad.

I also believe that during this period Congress, the Administration, and Amtrak will grapple and should grapple and come to closure on some of the larger fundamental issues that need to be resolved about the level of service and the way it is paid for. Unless

and until that occurs, we will always be living on the edge. Therefore, I reiterate the importance of our budget request of \$1.2 billion for next year and to begin work to resolve these larger fundamental questions which have been raised.

It is my hope that you will see significant positive change in the months ahead—better equipment, investment in infrastructure, and a leaner organization, and an open, straightforward approach. Our budget request will be transparent, realistic, and understandable, and we will build a better railroad and leave the politics to you.

I will stop here. I know you have a number of questions you want to ask. Thank you for your attention.

[The statement follows:]

#### PREPARED STATEMENT OF DAVID GUNN

Madame Chairwoman and members of the Subcommittee, I thank you for the opportunity to appear here today. My name is David Gunn and I have been Amtrak's President for the past 5 weeks. I want you to know that when I accepted the position, I did so with both eyes open knowing that the company had some very significant and immediate problems. The company had lost credibility on many fronts and its management structure was ineffectual. The company made bad decisions while pursuing an impossible goal of self-sufficiency mandated by Congress. Despite these problems, Amtrak and the service it provides are well worth saving. How it has conducted its business over the last few years is something that must be changed immediately if we are to survive.

I have been in one form or another in railroading all my adult life and I firmly believe that rail service and public transit in general must assume a greater role in our lives if we wish to avoid gradual loss of personal mobility. I have run larger organizations than Amtrak, but I do not recall in nearly 40 years of service taking the reins of a company with such immediate and significant problems. Let me tell you exactly where we are in getting through the immediate cash flow crisis and then I want to spend a few short moments outlining what I plan to do over the next 12 months.

As many of you know, we have been working since the beginning of the year with our auditors to close the books for 2001 and receive an audit opinion that will allow us to have access to short-term borrowing. At this time, we have come to closure on Amtrak's fiscal year 2001 financial statements with the auditors. However, we have not come to closure with the auditors on a final opinion. This fact plus the fundamentals of our business means that our ability to obtain a short-term loan is in serious jeopardy.

We are pursuing other options at this time before the company runs out of cash. Since time is of the essence, we notified the Administration that securing a loan guarantee is the only real option available to us to obtain short-term financing. On Monday, we took a proposal for a loan guarantee to the Federal Railroad Administration and, since then, we have been working closely with them to hammer out the details of this proposal. If the Administration were unable, or unwilling, to give us a loan guarantee, then the only other options would be for Congress to direct the Secretary of Transportation to guarantee a loan or, as a last resort, to step in with short-term bridge funding for the balance of the fiscal year. The window for fixing this problem in this way is short. Unless we are able to secure access to these funds either through a loan guarantee or another form of funding, I will have no choice but to announce a shutdown of the entire system. We are in the process of contingency planning and hope that it does not come to that. However, I have to reinforce that our cash will run out in July and we have but the next few days to find a resolution to this short-term problem.

Senator Murray and members of the Subcommittee, my home is on Cape Breton Island. I do get the newspapers out of Halifax and Toronto and even with just that source of information, I knew last summer that Amtrak was in deep trouble. When you have to mortgage your busiest station just to make payroll, you are only a step or two before the precipice. The announcement in February threatening to cut long-haul services was not based on reality, since Amtrak's problems will not be solved by such an action.

My approach to running Amtrak hinges on the fact that I cannot imagine a country such as ours without a national passenger railroad system. That means, I would

expect that Amtrak will be around for a while. Second, the basic Amtrak model can and should work. Third, no passenger system in the world operates without some form of governmental subsidy. That means that Amtrak will never (a) be profitable, and (b) will always need, just like every other mode of transportation, some form of public investment, or subsidy. Lastly, no amount of councils, commissions, study groups, panels, or symposiums will find a painless answer to what to do about Amtrak. Recent proposals to privatize or restructure are exercises in problem avoidance. The Federal Government must decide what role rail should play just as it does with highways and air, even waterways.

Now about Amtrak. I am what most people would call a traditional manager. I believe in a small technically competent management staff with clear lines of authority and accountability.

Amtrak can be a good operator of rail passenger service. I have gotten around a bit and have found the employees to be friendly and dedicated, but very concerned about the railroad and their future. Despite years of equipment and infrastructure maintenance deferral, our employees have persevered.

Unfortunately, the plant and equipment, for the most part, suffers from neglect. Deferrals of maintenance and elimination of heavy overhauls have resulted in a multitude of problems. In addition, we have nearly 100 cars and locomotives in wreck repair status, the majority of which are cars used on long distance trains. With a fleet of 1500 cars, that is about 1 in 15 cars out of service, some of which have been so since the early 1990s. This will change.

Also, we have begun to reduce the number of consultants on the payroll. I have never been a fan of using consultants. My approach has been to build a strong management team that can solve and work through its own problems.

I will streamline the organization and establish clear lines of authority and responsibility. The first thing I asked for when I arrived were organization charts. I found we had nearly 85 people with titles of vice-president. Many of these titles had adjectives like senior, executive, or regional in front of the word vice-president. This is changing.

I found a budget process not based on the actual needs of the operation and inefficient as a way to enforce discipline throughout the company. Rather the budget was a document based on unrealistic assumptions regarding revenue and expenses. There was inadequate control over staffing. Next year, we will take a different approach by building the budget from the ground up, a zero-based approach. It will be detailed, based upon authorized positions and planned activities. If we are going to rebuild track, we will want to know where and when. You may choose not to fund everything we ask for, but you will know what is needed and what you are funding.

Driving the budget process, we will look at every route and service to improve efficiencies and cost recovery. Most of our trains lose money and they always will, but we can run them more efficiently. That is an achievable goal. Pursuing self-sufficiency was not. We will share our budget with you and we will report monthly on our progress.

I have found in life that anything worthwhile comes about through realistic goals, dedication, initiative and loyalty, not by wishing it so. In pursuing Congressionally-mandated self-sufficiency, the company tried too many initiatives simultaneously and pursued an array of financing arrangements to make up for budget shortfalls. The debt the company now carries is just under \$4 billion and is unsustainable. Obviously, we cannot rewrite history. What we can do is learn from our mistakes, get back to basics, and move forward. I will return Amtrak to the basics of running a railroad.

Finally, while all of our focus has been to resolve the immediate short-term budget crisis, we have begun to plan for the fiscal year 2003 budget process. To that end, I cannot emphasize how important it is for Congress to fully fund Amtrak's \$1.2 billion request for fiscal year 2003. This level of funding should allow us to begin the work that I have outlined in this testimony and start to rebuild the railroad. I also believe that during this time period Congress, the Administration and Amtrak will grapple with and hopefully come to closure on some of the larger fundamental issues that we need to resolve about the level of service and the way that it is paid for. Unless or until that occurs, we will always be living on the edge. Therefore, I reiterate the importance of our budget request of \$1.2 billion for next year and to begin the work to resolve these larger fundamental questions.

It is my hope that you will see significant positive change in the months ahead—better equipment, investment in infrastructure, a leaner organization and an open straightforward approach. Our budget requests will be transparent, realistic and understandable. We will build a better railroad and leave the politics to you.

I will stop here because I know you have a number of questions you want to ask. Thank you for your attention. Everyday Savings Specialists

Senator MURRAY. Thank you.

We will finally turn to Mr. Mead, and I especially want to thank you for being here. I know you were before the House committee all morning long and made time in your schedule this afternoon for this hearing. I appreciate it.

**STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION**

Mr. MEAD. Thank you. The other hearing was on the Transportation Security Administration and its implementation.

I want to start by just saluting Mr. Gunn. I think he should be saluted for taking over the helm at a very difficult time in the railroad's history.

The situation is really serious. Amtrak's running short of time and solutions. I like the way you put it in the opening: there is a short and a long-term take we all have to consider here. You cannot do one without the other very easily.

I have four points I would like to make. The first is that in our January 24 statutory report on Amtrak finances and in testimony in March, we said that Amtrak's financial health has deteriorated and its cash losses remain high, that it is going to miss its budget target by \$200 million or thereabouts. So what we have here is a cash flow problem, that is not unexpected, the magnitude of the loss is not unexpected.

What is unexpected is the loss of access to its short-term line of credit because of the uncertainty over future Federal funding and, Amtrak's technical default on the \$270 million unsecured line. It went into technical default because it does not have an audit opinion and it did not have one at the end of the first quarter of this year.

The financial institutions who provide this line of credit have said they need security either in the form of collateral or a Federal loan guarantee before allowing Amtrak to draw against it. The truth is Amtrak does not have much collateral left that is not already mortgaged except for the Northeast Corridor. So that avenue does not appear fully realistic.

The second point is Amtrak has applied for a loan guarantee through a program that is known as the Railroad Rehabilitation and Improvement Financing Program. It is called RRIF for short. We feel there are a number of difficult questions that should be explicitly answered before that program is used for such a purpose. One, it is our understanding that this program's purpose, is as a mechanism for long-term financing of capital needs of the rail industry that are unavailable from the private sector. Well, the real purpose of Amtrak's application is not for that. It is for a short-term bridge loan so it can make its way through to the end of the year. I think that is the truth of the matter. Furthermore, a significant portion of the Amtrak short-term cash needs are operating in nature. Again, this program is designed for capital.

I think an alternative to using that vehicle would be to explicitly and straightforwardly create a one-time Federal loan guarantee or do a direct Federal appropriation, either through the 2002 supplemental that is pending or through some other legislative vehicle

whose consideration by the Congress is imminent. Really, everybody is right here; we really do not have much time on this.

I should note that there is \$55 million already in the 2002 supplemental for Amtrak and it is associated, of course, with 9–11. But you have to answer the question, is that going to be in addition to the loan guarantee or will it operate as an offset? I do not know the answer to that, but it is \$55 million.

Third, everybody should recognize that providing Amtrak a Federal loan guarantee or a \$200 million direct loan to get them through the end of the year is just pushing this problem off into 2003. This has happened for several years now, where we make it close to the end of the year, then Amtrak borrows money to get to the end of the year, then we take the appropriation as soon as it gets it, and pays back the loan. It is a pattern. If we do it again and we do not solve the longer-term picture here, Amtrak will be back again next year and we will have a similar situation.

In a sense, Amtrak has created an illusion of progress toward meeting its glidepath to self-sufficiency and it has done that by borrowing money and mortgaging its assets. So that is how it makes it through to the end of the year.

Mr. Gunn mentioned the debt. Between 1997 and 2001 Amtrak's total debt grew by about \$2.7 billion, from \$1.7 billion to \$4.4 billion. That is a 155 percent growth. And for every dollar in additional revenue that Amtrak brings in, it spends, because of its expenses, \$1.05. So you cannot very well make ends meet when you have that operating profile.

Finally, my last point is Amtrak's current short-term funding crisis ought not to be allowed to obscure the very critical, far more difficult question of long-term capital funding. The operating subsidy, the \$200 million, pales in comparison to the larger issue of the capital requirements of this railroad.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. KENNETH M. MEAD

Madam Chairwoman and members of the Subcommittee: I appreciate the opportunity to provide our views on Amtrak's current financial situation. In our January 2002 Assessment Report and again this past March in testimony before this subcommittee, we reported that Amtrak's overall financial health had deteriorated, that cash losses remained high, and that Amtrak would miss its budget targets for 2002 by more than \$200 million. To address these problems, Amtrak expanded its line of credit and announced the deferral of \$175 million in capital investments and operating cuts of approximately \$111 million. Nevertheless, we are hearing now from Amtrak that it must begin an orderly shutdown of its entire system if it can not access its short-term credit line for the more than \$200 million in cash it needs to fund its operating losses through the end of the fiscal year.

The situation is serious and Amtrak is running short of time and solutions. I want to make four points today.

- First, Amtrak's cash flow problems for the fourth quarter were not unexpected, but its loss of access to its short-term credit facility was. Because of the uncertainty over future Federal funding for Amtrak and Amtrak's technical default on its \$270 million, unsecured credit facility, the financial institutions providing the facility have asked for some type of security, either collateral or a Federal loan guarantee, before allowing Amtrak to draw against it.
- Second, Amtrak has applied for a loan guarantee through the Railroad Rehabilitation and Improvement Financing Program (RRIF) to solve its short-term cash-flow crunch. However, there are a number of difficult questions that we feel must be explicitly answered concerning the use of this program for such a purpose. For example, it is our understanding the RRIF is a mechanism for long-

term financing of capital needs of the rail industry not available from the private sector. In contrast, the real purpose of this application is for a short-term bridge loan for Amtrak to make it through to the end of the year. Furthermore, a significant portion of Amtrak's short-term cash needs are operating in nature, which would make them ineligible to be financed under the terms of this Program.

Alternatives to using the RRIF vehicle would be to explicitly and straightforwardly create a one-time Federal loan guarantee or a direct Federal appropriation either as part of the 2002 supplemental appropriation or through some other legislative vehicle whose consideration by the Congress is imminent. We note in this regard that the Senate version of the 2002 supplemental appropriation contains a grant to Amtrak of \$55 million for current operating and capital needs related to security and passenger fleet improvements. The relationship between Amtrak's request for a RRIF loan guarantee for up to \$270 million and the \$55 million supplemental funding is unclear. Would the supplemental funds be considered an addition to the loan guarantee or would they be an offset?

Third, all parties should recognize that providing a Federal loan guarantee in effect pushes the Amtrak problem forward to 2003. Amtrak ended fiscal year 2001 with \$85 million in short-term borrowing to cover its cash-flow deficit. At the close of 2002, if Amtrak receives a loan guarantee, that figure will be closer to \$225 million for the same purpose. Amtrak can not keep rolling forward into future fiscal years a progressively growing, cumulative cash-flow deficit. If this is the case, Amtrak will be back before Congress next summer in a similar situation asking for additional funds.

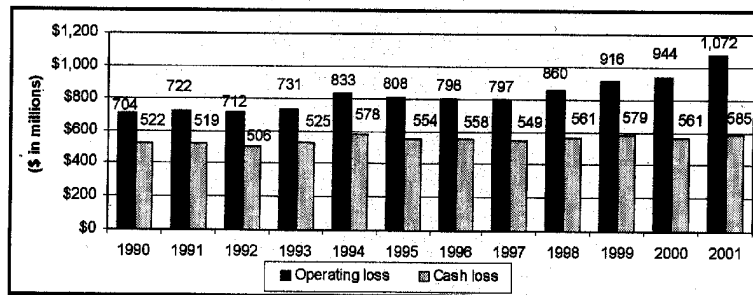
In a sense, in prior years Amtrak had created the illusion of progress towards meeting its glidepath to operating self-sufficiency by maximizing external financing and selling off assets, rather than significantly reducing costs. Amtrak is now burdened with a heavy debt load and substantial principal and interest payments that must be satisfied in the coming years. Between 1997 and 2001, Amtrak's total debt grew by about \$2.7 billion, from \$1.7 billion to \$4.4 billion, representing an overall increase of 155 percent. Amtrak faces formidable challenges in meeting its rapidly growing debt service requirements.

Finally, Amtrak's current short-term funding crisis should not be allowed to obscure the equally critical and far more difficult issue of long-term capital funding. The cost of short-term operating losses pales in comparison to the multi-billions of dollars in long-term capital investment that will be needed to sustain a national, intercity passenger rail system. Amtrak's fiscal year 2003 grant request of \$1.2 billion is the minimum needed to maintain the reliability of the current system through 2003. To address the backlog of capital investment throughout the system and to finance improvements on corridors around the country will cost many hundreds of millions of dollars more each year.

#### *Fiscal year 2002 Cash Losses Were Expected*

As illustrated in the following table, Amtrak's operating and cash losses have continued to increase since 1990. Its cash loss in 2001 of \$585 million was \$24 million worse than 1998, the first full year of its glidepath. The unfortunate fact is that expense growth has more than kept pace with revenue growth since Amtrak received its self-sufficiency mandate, so that for every \$1.00 Amtrak has realized in additional revenue, cash expenses have increased by \$1.05.

**Growth in Operating and Cash Losses, 1990 Through 2001**

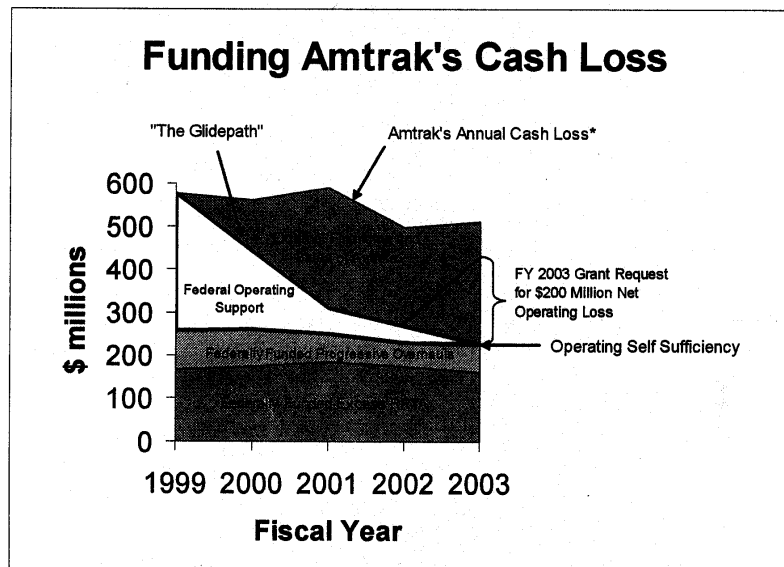


The cash problem in 2002 is not unique but continues a pattern that has existed for the last several years. In our 2001 Assessment of Amtrak's Financial Performance and Requirements,<sup>1</sup> we projected Amtrak's unfunded cash loss in 2001 to be \$277 million. Amtrak was able to cover this loss by mortgaging one of its most valuable assets, Penn Station-New York for \$300 million. For 2002, we projected Amtrak would generate \$217 million in unfunded cash losses and would, therefore, need to tap its short-term credit facility to offset the cash losses.

In a sense, Amtrak had created the illusion of progress towards meeting its glidepath to operating self-sufficiency by maximizing external financing and selling off assets, rather than significantly reducing costs. This is represented by the blue area in the chart on the following page. Amtrak is now burdened with a heavy debt load and substantial principal and interest payments that must be satisfied in the coming years.

The glidepath was based on a declining use of Federal appropriated funds to cover its cash losses. In 2000, Amtrak refinanced a portion of its fleet under a sale/lease-back agreement that provided approximately \$124 million in cash. In 2001, Amtrak mortgaged Penn Station-New York for \$300 million and borrowed \$85 million from its short-term credit facility. Each of these transactions allowed Amtrak to cover the cash-flow deficit.

By this fiscal year, nearly all available assets have been collateralized and Amtrak has nearly exhausted its long-term, secured debt capacity. Amtrak's plan was to tap its \$270 million short-term credit facility to cover its cash losses in 2002. Unfortunately, absent audited financial statements and a long-term Federal commitment in the form of a reauthorization, Amtrak has apparently lost access to the private unsecured credit market. Essentially, the Federal Government has now become Amtrak's lender (guarantor) of last resort.

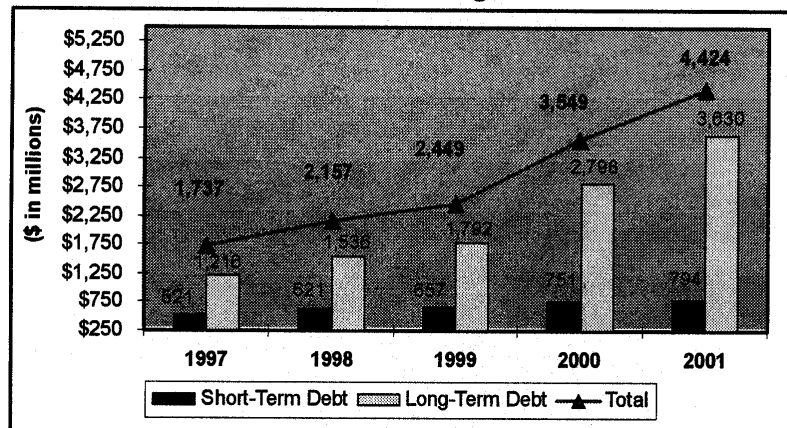


\* 2002 and 2003 cash loss estimated in OIG's 2001 Amtrak Assessment.

Amtrak's debt load has grown dramatically over the last 5 years due to this external financing of its cash losses and its new train equipment. Between 1997 and 2001, Amtrak's total debt grew by about \$2.7 billion, from \$1.7 billion to \$4.4 billion, representing an overall increase of 155 percent. During the 7 months from September 30, 2001 to April 30, 2002, Amtrak's total debt grew by \$142 million to \$4.6 billion, continuing its trend of growing long-term debt obligations. The following table illustrates the growth in Amtrak's short-term liabilities as well as long-term debt and capital lease obligations since 1997.

<sup>1</sup> Report No. CR-2002-075, January 24, 2002. 2001 Assessment of Amtrak's Financial Performance and Requirements, National Railroad Passenger Corporation, Office of Inspector General, U.S. Department of Transportation.

**Growth in Amtrak's Short and Long-Term Debt,  
1997 Through 2001**



*Amtrak's Use of RRIF*

Amtrak has applied for a loan guarantee through the RRIF to solve its short-term cash-flow crunch. However, there are a number of difficult questions that we feel must be explicitly answered concerning the use of this program for such a purpose. For example, it is our understanding the RRIF is a mechanism for long-term financing of capital needs of the rail industry not available from the private sector. The program's long-term nature can be found in its terms that prescribe a maximum repayment period of up to 25 years. In contrast, Amtrak's loan application indicates repayment within 5 months indicating that its real purpose is for a short-term bridge loan to make it through to the end of the year. Furthermore, a significant portion of Amtrak's short-term cash needs are operating in nature, which would make them ineligible to be financed under the terms of the program. Lastly, this action would likely add to Amtrak's funding needs in 2003 and defer its financial uncertainties and any resolution to 2003 or later.

Alternatives to the RRIF vehicle would be to explicitly and straightforwardly create a one-time Federal loan guarantee or direct Federal appropriation either as part of the 2002 supplemental appropriation or through some other legislative vehicle whose consideration by the Congress is imminent. We note in this regard that the Senate version of the 2002 supplemental appropriation contains a grant to Amtrak of \$55 million for current operating and capital needs related to security and passenger fleet improvements. The relationship between Amtrak's request for a RRIF loan guarantee for up to \$270 million and the \$55 million supplemental funding is unclear. Would the supplemental funds be considered an addition to the loan guarantee or would they be an offset?

*Amtrak's fiscal year 2003 Legislative and Grant Request*

On February 15, 2002, Amtrak submitted its grant request to the President, requesting \$1.2 billion, which it stated would be "essential for keeping a national rail service network intact" in 2003. We have reviewed Amtrak's grant request and concluded that Amtrak will require at least \$1.2 billion to maintain its current system and minimize any negative effects on operations or safety. This does not include the need to repay any type of short-term loan at the outset of the year. We believe there is a high probability that Amtrak's net operating cash loss will be more than the \$200 million Amtrak anticipates. If this is the case, Amtrak will be back before Congress next summer in a similar situation asking for additional funds. Therefore, Amtrak should reserve something on the order of 20 percent of its capital appropriation for 2003 until the fourth quarter to keep open the option to request permission from Congress to reprogram the money to cover operating shortfalls.

It is important to note that if the 2003 capital appropriation is less than requested, the likelihood of reliability problems in the Northeast Corridor increases in 2003 and beyond. A summary of our recommendation and Amtrak's fiscal year 2003 grant request is shown below.

## AMTRAK'S FISCAL YEAR 2003 GRANT REQUEST AND OIG'S RECOMMENDATION

[Dollars in millions]

Component	Amtrak grant request	OIG recommendation
Capital Investment .....	\$840	<sup>1</sup> \$787
Operating Subsidy .....	200	265
Excess RRTA .....	160	160
Total Funding Required .....	1,200	1,212

<sup>1</sup> We have recategorized \$65 million for progressive overhauls as operating expense.

This request does not cover the majority of safety and security improvements Amtrak identified in various proposals following September 11. Amtrak has made the decision to seek funding for these projects separately.

Madam Chairwoman, this concludes our statement. I would be pleased to answer any questions.

Senator MURRAY. Thank you very much.

I have a great many questions on Amtrak's financial condition, both in the short-term and the long-term. But if Amtrak does not survive the next 3 months, then there will be really no point in discussing the Secretary's long-term plan. I am going to begin today with questions on the short-term crisis and ask the long-term questions secondly. Let me begin with the short-term crisis.

Four months ago Deputy Secretary Jackson, who chairs Amtrak's Audit Committee, told this Subcommittee that we could expect Amtrak's auditor to issue a clean opinion on Amtrak in the near future. That audit opinion has never been issued. Mr. Rutter, can you explain to this Committee why that audit opinion has not been issued?

Mr. RUTTER. I think it was our expectation, being on the board at that time, based on representations that had been made to us by the Amtrak staff, that the opinion was indeed coming. What has happened in the mean time is that the auditors, for any number of reasons, have been loathe to finish their work and we have been dealing with an ongoing list of tasks that they have set out to solve, resolve, deal with, and we are still waiting on that finished product.

Given the fact that the financials are in fact done, we are much closer than we had been in the past. But it certainly was our expectation, and I think a reasonable one based on what we were being told, that the audit opinion was going to be there. As it has turned out, it is that very audit opinion that is getting in the way of that access to the short-term line of credit.

Senator MURRAY. Mr. Gunn, how recently did Amtrak and its auditor come to agreement on the details of your financial statements for last year?

Mr. GUNN. I believe it was last week.

Senator MURRAY. Did your process of finalizing your financial statements result in a change to your estimated financial loss for last year?

Mr. GUNN. Yes, it did.

Senator MURRAY. By how much?

Mr. GUNN. The result of the audit, the net change in the deficit was approximately, I think it was, \$160 million.

Senator MURRAY. The net change was \$160 million?

Mr. GUNN. In other words, if you look at the operating loss, for example, unaudited it was \$990 million; audited was \$1.198 billion.

Senator MURRAY. So your deficit increased by \$160 million?

Mr. GUNN. Yes. Actually, that is almost \$200 million. But part of that was prior years' adjustments, which was just easier to put in 2001 than go back and try to restate all the prior years. So the change in 2001 numbers was about \$160 million.

Senator MURRAY. Mr. Rutter, during the hearing 4 months ago I specifically asked Deputy Secretary Jackson whether there was any material or substantive adjustments that were being contemplated to Amtrak's financial statements and he said he did not know of any. How is it that Deputy Secretary Jackson as chairman of Amtrak's Audit Committee did not know that adjustments would need to be made to the tune of hundreds of millions of dollars?

Mr. RUTTER. Part of that was that the auditors at that time had not come to us with some of those estimates of how they were going to be adjusting those books. We did not have that information in front of us. Nor were we told that it looked like those adjustments would be forthcoming.

Ms. McLEAN. Excuse me. May I also add that the Audit Committee was established just a couple months ago, so at the time the Deputy Secretary was not the chairman at the time.

Senator MURRAY. My understanding is he was chairman of the Audit Committee. When he spoke to us 4 months ago he was chairman of the Audit Committee.

Ms. McLEAN. Well, we can verify that, but it was just recently established.

Senator MURRAY. He was on the finance committee, that is correct.

Mr. Gunn, can you describe the condition of Amtrak's financial controls and the status of its books when you took control as president of Amtrak a few weeks ago?

Mr. GUNN. Well, clearly there is a problem when you have that big a swing. What the board was told in the fall was the unaudited number for 2001 and then the actual comes in almost \$200 million to the worse. That is a pretty significant change.

I think the other—so that is the problem. But the situation that I think is most disturbing is that internally—internally, the budget process was basically ineffective. In other words, the operating departments could not use it as a control mechanism. So you had a budget process which, first of all, was late. I do not think they actually distributed the budget until after the first of the calendar year.

But it tended to be numbers that were not based on a realistic assessment of expenses. Then the reporting was not useful to the people in the field. In other words, they could not rely on it and on the reports for controlling their expenses. It was not based upon, as I would hope we do in the next fiscal year, a set of authorized positions. The bulk of our expenses are labor or labor-related and what you want to do is have a very clear control over the number of positions that you have in each of your activity centers. The budget was not built on that.

So to me it was not an effective control mechanism and clearly the information the board got changed. I think that, given what the

board received, that I can understand why the Deputy Secretary said what he said.

Senator MURRAY. Mr. Mead testified this afternoon that Amtrak's total outstanding debt has skyrocketed over the last 4 years. Four months ago I asked Deputy Secretary Jackson whether additional debt was in the long-term distant financial interest of Amtrak or the taxpayers that support it and he answered me with the following quote:

"No, I do not. When you combine the principal and debt payments, you are close to \$300 million, and when you stop and think about the \$521 million which is their subsidy you have over half of the subsidy going to debt and interest payments. When we take on additional debt, of course that just increases that trend line and there is an unsustainable situation."

Mr. Rutter, if that is the view of the Administration why are you currently contemplating saddling Amtrak with additional debt just to get them through this fiscal year?

Mr. RUTTER. We are contemplating that because they have asked us to.

Senator MURRAY. What is the other option?

Mr. RUTTER. One of the problems that we face, and frankly it is similar to what we faced last summer, is that those requests have come at the last minute, with little or no other alternatives to do, and do not give us really a whole lot of flexibility to consider other options that either we or you the Congress can deal with.

In the spring, in March when Secretary Jackson said that, it was less than a month after the board of directors had made some fairly dramatic decisions on meeting the financial needs of the corporation within its means. As Mr. Gunn has explained, systems do not seem to have been in place to have accomplished those goals. But it was under our expectations and the directive that had been given to the company to accomplish that that we were hoping and had been moving toward not having to be right here right now with the same situation.

Senator MURRAY. Mr. Mead, in his testimony, pointed out that a loan guarantee may not be workable for Amtrak and this morning Secretary Mineta stated that if a loan guarantee cannot be made to work there are, and I quote from him, "other schemes available to tide them over."

Ms. McLean, can you describe in detail some of the other schemes that are being contemplated and how they might work?

Ms. MCLEAN. Well, right now we are just focusing on the RRIF loan application because of the immediacy of the issue. Amtrak just, as you said, just gave it to us Monday night and they are asking us to review it and give an answer as quickly as next week to be able to solve that. As soon as we understand if there is a problem with this loan, we will immediately start turning to other options.

Senator MURRAY. Let me ask you a very simple and direct question, and I really want a simple and direct answer. If you cannot grant a loan guarantee to Amtrak and you do not come up with any other scheme by next week to extend Amtrak's life, will you ask this Committee to provide a supplemental appropriation for Amtrak?

Ms. MCLEAN. What we have said in the testimony and what the Secretary also said this morning was that we are willing to entertain additional funds for Amtrak if they are combined with reforms as outlined in the Secretary's statement.

Senator MURRAY. Right now the cornerstone of the House and Senate-passed supplemental appropriations bill is additional funding for terrorism and homeland defense. Is it possible that the Administration might ask us to reduce supplemental funding for homeland defense in order to boost supplemental funding for Amtrak?

Ms. MCLEAN. I cannot take a position on that right now, but I do know that any additional funding for Amtrak would have to be combined with changes in the way that we manage passenger rail service right now, again as outlined by the Secretary this morning.

Senator MURRAY. My time is up for the moment. I will turn to Senator HUTCHISON for questions.

Senator HUTCHISON. Thank you, Madam Chairman. You actually asked the questions—the end of your questions were the ones in which I was interested. That is, when Secretary Mineta said, we are going to do everything possible to keep Amtrak running, I just wondered what the options are besides a loan guarantee.

What would you say the options are if there is no loan guarantee, Mr. Rutter?

Mr. RUTTER. Well, what is in front of us right now is a specific—an application under a specific program that Congress has given my agency instructions on how that works. We are frantically working to make sure that what has been requested meets the statutory guidelines and instructions that we have been given to see whether we can make that decision.

Should there be a determination—we are looking as hard as we can to see whether we have the ability to make that happen. Congress has the ability to decide on its own to make that loan guarantee and instruct us to do it should that be an option. And of course, there is the possibility of direct supplemental appropriations.

The former two options of guaranteeing access to private lines of capital involve less effect on the Federal treasury. But it is our hope that as we address this we do so in the context of trying to make some concrete actions to change the circumstances under which this seems to keep happening over and over again.

Senator HUTCHISON. Would you say it is this Administration's position that Amtrak is one system, as opposed to a Northeast Corridor and the rest of the system?

Mr. RUTTER. The proposal that the Secretary made this morning and that is the Administration's long-term vision envisions a national passenger rail policy. In it, it talks about some of the specific issues to the corridor itself because that is the only part of actual infrastructure and real estate that Amtrak owns. In the rest of the country they operate on infrastructure owned by private freight railroad companies.

Because of the specific difficult circumstances about what the corridor does, who it does it for—it is not just Amtrak; about 80 percent of its capacity is used by commuter railroads as well—it poses certain specific difficult problems that we think need to be

addressed because it is the only place that Amtrak owns that track. However, it is our intention that our policies are designed to provide a framework for passenger rail to take place throughout the country. As a matter of fact, there are many States that are supporting passenger rail being run by Amtrak, and it is that model of Federal-State partnerships that we would like to see going on in other States as well.

Senator HUTCHISON. You think the Administration would support a national system that has a Federal component with an equitable distribution of State help or State matching in funds. But you cannot have a national system if one State opts out, the next State opts out, and then the next State opts in, unless you are willing to accept that there is a national role or a national system.

So do you think that the Administration would contemplate that, if there were a reform package—and I think no one argues that there should not be reform. But say a reform package was put together that has a national system with Federal money, with State subsidies as well in some sort of equitable manner. Do you think that the Administration would support a system like that?

Mr. RUTTER. That is certainly an end state that we would like to see happen, which is circumstances under which all States are making—are being asked to make the same kinds of decisions and a situation in which the Federal Government commits to an ongoing partnership role in providing capital Federal in partnership with the States. We would hope that it would migrate to a national system where routes are being provided where they make some financial sense or where States have chosen that those routes meet important transportation needs of their places.

Certainly the kind of issues of making sure that we can do that with bringing all kinds of different States to the table at the same time is going to take some effort and some thought. But it is our vision that that end state be a place where the Federal Government commits to an ongoing capital funding role and where States are involved, not only in some financial participation, but in making operational decisions about where passenger rail service makes sense in the context of statewide transportation planning.

Senator HUTCHISON. But with a Federal component as well?

Mr. RUTTER. Well, the Administration has talked about limiting operating subsidies per route, but it is clear that a Federal role in providing financial capital assistance is going to be an important part of making this work.

Senator HUTCHISON. Mr. Gunn, what would be your vision for an Amtrak system that could work as a national system?

Mr. GUNN. Well, my view is that you need a management company to manage rail passenger services, and right now that is Amtrak. If you want to change the name, you could do that. But by any other name, it will still be Amtrak.

The reason I say that is that rail passenger service in this country, is small. It is a small market for equipment and for facilities and power supply and so forth. If you fragment it, the odds of being able to actually manage and run a passenger rail network I think will be—the ability to do that will be lost. We have the technical expertise to run an electric railroad. No one else has that, at least

a main line passenger railroad. We are the only ones that have it. We should have the expertise in cars and locomotives and so forth.

So what I get when I look at the talk of disassembling Amtrak, I think what you are really doing is setting passenger rail back significantly. You are destroying the technical expertise. I believe that—I agree that there should be standards for all of our service and there should be equitable sharing arrangements between the various governmental bodies. In other words, one State should not get a better deal than another. There should be equity and I agree with that.

But I also believe that there has to be for a lot of these national system routes, to be a Federal—the Federal Government has to take a lead because—I think Senator Byrd said it—that what do you do when West Virginia wants something and Virginia does not? Just stop the train at the border? And that you have to treat it like the interstate highway system.

I have really strong reservations about, if I may just elaborate a little bit, about a couple of other proposals. One is that when you look at the current proposal that has been put forward by DOT, the idea that you can privatize the service I think is not realistic. Everybody knows that trying to push us to self-sufficiency was a bad idea. In fact, I know the FRA Administrator said that in his testimony this spring. Secretary Mineta said it again today. Well, if that is a bad idea, how can you privatize it? It is not a profitable business.

The other thing I feel very strongly about is the idea that you can separate the infrastructure from the operation. There is a perfect model for this if you want to see how it works. It has already been done, and it is in Britain. Great Britain has done this through Rail Track. Now, whether or not you sell the asset or not does not make any difference. In Britain they sold the right of way to a private company. Here I believe the proposal is to maintain controls, title to the asset, but have a private company operate it.

When you separate the infrastructure from the operation, you have a really serious problem, I think. First of all, you have conflicts in the goals of the two companies. The infrastructure company I assume is going to be a profit making—or I assume it is going to be a profit making or I assume it is a company that is going to be a profit making or a cost avoidance company at some point. So you will have a basic conflict between the way they will want to do maintenance and what is required to run good passenger service; i.e., do you do the maintenance at night or during the day? You need an operator who can make the decisions and control those decisions.

I think the other issue is capacity in the corridor. You need someone who has—what kind of a corridor do you want? Do you want to handle freight trains, coal trains, commuter trains, and Amtrak? Or do you want to just handle high-speed? You need someone who has a foot in both camps, operation and maintenance to make the decisions on that.

The last thing that I think is most important, and this is where the British experience should be taken very seriously, is the whole issue of safety. In Britain they have literally had trains fall over, roll over and fall on top of the welded rail that was supposed to

be put in to replace the bad rail. They have killed people as a result of the basic incompetence of the Rail Track management system. I will not accuse individuals, but the system.

What they did was they privatized everything. They destroyed the railroad management structure, the technical structure to run the track, the track inspection people and the engineering forces that oversee the rights of way. They contracted that all out. What has happened is you have people trying to do jobs they do not fully understand and as a result their national rail network has deteriorated significantly since they have gone to this model and, amazingly enough, it costs more than it did when British Rail ran it.

So my view of a national rail network is one where we have standards, cost standards that we have to meet, we have equitable arrangements for sharing costs, capital and operating, that everybody agrees to, States and the Federal Government and so forth. But I think that the Federal Government has to provide funding to that. And I think it should be run by a corporation that is well run and managed as an efficient management company, and it should not be broken up.

Senator HUTCHISON. Thank you, Madam Chairman.

Senator MURRAY. Senator Durbin.

Senator DURBIN. Thank you, Madam Chair.

Mr. Gunn, thank you for that, because I was visiting England during the worst of this.

Mr. GUNN. It was awful.

Senator DURBIN. It was terrible. It was a national disaster.

Mr. GUNN. It still is.

Senator DURBIN. This Margaret Thatcher model which apparently has now been embraced by this administration to some extent failed, and it is amazing that we would make the same mistake again and jeopardize the basic service we have and safety of the system that currently exists.

I want to make it clear, Mr. Gunn, for the record. If you do not receive the loan, the \$200 million loan, by June 30, I think is the date that you have given, what will happen at Amtrak?

Mr. GUNN. Well, actually the time is even more critical. Basically, if we do not have this issue resolved by the middle of next week I think we are out of time. I think at that point we begin the process of shutting down, because what happens—in order to shut down the system—and we have put together the plan to do it. We know where we are going to store the cars and the locomotives and so forth. What we have to do is we have to, obviously, stop accepting passengers and we have to move all the equipment to central storage locations.

Senator DURBIN. Would this be systemwide?

Mr. GUNN. Systemwide.

Senator DURBIN. All Amtrak service would come to—

Mr. GUNN. All Amtrak service would stop. But the reason we need to do it before we actually spend the last penny is that when we cease operations we have to have funds in the bank to provide for the collection of the equipment, storage of the equipment, and arrange for some security, at least for a couple of months, so that the equipment will not be vandalized. We also have to do things

like keep the catenary energized, because if we do not it will disappear, it will be stolen.

There is a series of things that we have to do. So we need about \$40 to \$50 million expense just to close down. But I cannot stress—the urgency of this is enormous. We are very near the point of no return.

Senator DURBIN. Have you considered alerting the governors of the States that are served by Amtrak of this possibility?

Mr. GUNN. Well, we have been pretty vocal about it in the media and we have been on television. We have been saying it to anybody that will listen.

Senator DURBIN. I have to tell you, there have been so many stories about Amtrak's demise that if this is a serious and real possibility I think we owe it to the governors across America to prepare for the travel disaster that will result, particularly in the Northeast Corridor, in my State of Illinois, and others.

Mr. GUNN. Yes, sir.

Senator DURBIN. Have you done that?

Mr. GUNN. No. We have gone to the agencies where we operate, like in California for example, and our Illinois people have talked to the people that they work with. But specifically to the governors, no.

Senator DURBIN. I would, unless something happens immediately, I would suggest before the end of this week that notice be given, because there will have to be contingency plans considered by families and businesses and governors and others.

Mr. Rutter, Ms. McLean, I am not clear as to where the Administration is about this looming disaster. Have you said that you are conditioning the interim financing and the loan to keep Amtrak running on some kind of reform proposal? Is that what you said, Ms. McLean?

Ms. McLEAN. We are looking at the RRIF application that Amtrak has provided us, just simply to see if it complies with the law. So we have not completed our review of whether or not the application actually can be honored under the legislation.

Senator DURBIN. Can you give this Committee and the people who are following this the assurance that the money will be forthcoming from the Bush Administration so that Amtrak does not have to cease operations next week?

Ms. McLEAN. I can tell you that we are doing everything we can to look at the application and see if it can be approved under this program. I cannot at this time say that it will be approved, but we are doing the best we can to be able to look at it and review it and hopefully get this approved.

Senator DURBIN. Do you understand the gravity of ceasing Amtrak operations?

Ms. McLEAN. I certainly do.

Senator DURBIN. The impact it will have on this Nation.

So how soon will you be able to tell us yes or no whether or not you are going to approve this application for short-term financing at Amtrak?

Ms. McLEAN. We are right now I think looking at early next week. Next week. I do not know, Allan, if you want to.

Mr. RUTTER. Well, certainly, as Mr. Gunn has said, we need to be able to make some decisions by mid-next week. They also need to be able to have conversations with the banks that make up the line of credit earlier than that. We are stretching every possible resource to get to a decision point on whether we have the capacity, the capability, the authority to do what it is that we have been asked to do.

Senator DURBIN. If I understand what Mr. Gunn has said, that is that by the middle of next week he will have to shut down operations, the best you can tell me is that by early next week you will tell him whether the Government is going to make that happen. That really is cutting it thin, cutting it very close.

Mr. RUTTER. Yes, sir.

Senator MURRAY. If the Senator will yield, let me just follow up on that. If I understand you correctly now, you are going to know by the first of next week whether or not the loan guarantee will work. If your answer is no, is the President going to be willing to ask us to put the money into the supplemental in order to keep Amtrak running or not?

Ms. MCLEAN. I think we have not gotten to that decision point yet, so I cannot answer that today. But I understand the immediacy.

Senator MURRAY. We do not have much time on that and I am very concerned because, in response to my question and Senator Durbin's, we are hearing that if we ask for money in a supplemental that you want some kind of reform. We have not seen your legislation. We have heard of a speech to a Chamber of Commerce. But if you are expecting to request supplementals if this loan guarantee does not work out somehow and you want us to put reforms and \$200 million into a supplemental on legislation you have not written, Amtrak is going to shut down. I think Senator Durbin just expressed his concern over that.

Senator DURBIN. Frankly, I think it will be too late, Chairman Murray. Honestly, we cannot get a supplemental out of here in time to give Mr. Gunn the resources to keep Amtrak running. He made it clear that he has no choice. If the money is not there by the end of the month, he has to start taking action in the middle of the next week. This is a doomsday scenario and I cannot understand why the Administration would let it reach this point.

Ms. MCLEAN. Sir, the application was given to us Monday night and our employees have been working practically night and day poring through this extremely thick application. So we are definitely committed to looking at this and taking this seriously, and we completely understand the immediacy of this, the importance of this review, and we are certainly not taking this lightly.

Senator DURBIN. Do you believe it is advisable to inform the governors across America in States served by Amtrak to prepare for the possibility that Amtrak will cease service next week?

Ms. MCLEAN. I think I would take Mr. Gunn's lead on that.

Senator DURBIN. Let me just ask you, if I can understand—Mr. Gunn, we are facing this scenario which, sadly, could mean the termination of Amtrak service by the middle of next week across America. I am going to ask you—I only have a minute or 2 left here—can you envision a system with some Federal assistance that

would allow Amtrak to have a long-term future in this country? If so, what would be the level of Federal assistance which would be necessary?

Mr. GUNN. The answer to that is yes, I can envision a system, with some Federal assistance. The question is how big and how—is it the existing system and the existing level of service, at existing speeds and so forth? At that point you are looking at numbers which will not—that would probably be I would just be guessing, but it is like a billion to \$2 billion, \$2 billion, in that range.

Senator DURBIN. Annual?

Mr. GUNN. Yes. But I am just guessing at this point. I think we can help ourselves a lot in the coming budget year, if we make it, and make ourselves a little more efficient. There will be a number of initiatives that Amtrak has historically undertaken in the developmental areas throughout the country that will stop because we will not be able to afford them. But the existing system can be maintained, with some Federal help, for I think a fairly reasonable amount of money.

Senator DURBIN. Let me just close because my time is up and say that, first, I cannot understand how we have reached this point with this looming travel disaster facing our country. I cannot imagine what my friend from Pennsylvania is going to face with this news hitting the street.

Senator SPECTER. I will take the plane to Chicago.

Senator DURBIN. We will welcome you, but we need Amtrak, too.

But it is hard to believe that, after all of these months and all of this discussion about the future of Amtrak, we are literally coming down to a matter of hours as to whether or not Amtrak is going to shut down service in America. How did it ever get to this point?

I think what we need to have is clearly some leadership at all levels, in the White House and Congress, to avoid this disaster. I happen to believe, as Mr. Gunn has said, the Margaret Thatcher model failed in England. Let us not try it here. Let us try to do something that has a sensible approach toward giving Amtrak a long-term future.

Thank you, Madam Chair.

Senator MURRAY. Thank you, Senator.

I am going to turn the hearing to Senator Specter for his questions. A vote has been called and, Senator Specter, if you do not mind I am going to let you go ahead and ask your questions. I will go over and vote. If I am not back by the time you finish, we will take a short recess and I will resume as soon as I return. But I will just vote and come right back.

Senator SPECTER [presiding]. Well, thank you very much.

Mr. Rutter, does the Department of Transportation have a contingency plan for transportation in America if Amtrak shuts down?

Mr. RUTTER. We are doing everything we can right now to make sure that that does not happen. That is what is occupying all of our time, which is to make sure—

Senator SPECTER. Is the answer to my question no?

Mr. RUTTER. The answer would be no because we are focused on making sure that the current services are maintained.

Senator SPECTER. Well, Mr. Rutter, I think it is fine if the current services are maintained. In fact, beyond saying it is fine, I

think it is indispensable. But if it does happen there has to be some plan to take effect. If there is any chance at all that it can happen, if you are as pure as Ivory snow, 99.44 leaves it a little over half a percent. If that happens, what is the plan?

If the United States Department of Transportation does not have an alternative plan, who is to come up with an alternative plan?

Mr. RUTTER. I think what we face is the decision that has been left to us and the way that it has been posed to us, which is we have been asked in the span of less than a week to decide whether we have the ability and authority to keep Amtrak in existence. We did not expect to be given that choice or that demand in the way that it has come to us. Rather than devote our resources to determining what might happen, we are trying to do everything we can to preserve and to find ways of keeping Amtrak in existence, because that is what we are committed to.

Senator SPECTER. Well, in the absence of an alternative plan by the United States Department of Transportation to keep transportation available, you are really posing a situation where you have no alternative but to find the money for Amtrak. I can tell you from personal experience, I ride Amtrak every week and those Amtrak trains are full. You are going to have a gigantic number of people who travel from Boston to Washington, which is only one small part of Amtrak.

Mr. GUNN, once you shut down how complicated is it to start up again mechanically? You are going to have loss of confidence by a lot of passengers once it is unknown when you get to 30th Street Station in Philadelphia whether you are going to get to Washington or not. People are going to lose confidence. But mechanically, do you start up again very easily?

Mr. GUNN. If we shut down, what would happen is we would be in bankruptcy. So we would go into bankruptcy and we would be under the protection of a court and a trustee. Unlike normal railroad bankruptcies, the way the Bankruptcy Act works, a railroad, it is assumed there is a positive cash flow. So the bankruptcy protects the railroad from its creditors, removes the debt and allows them to reorganize and move forward.

In our case, there is not a positive cash flow. What would happen is if we shut down you would be faced with this same problem. In other words, is there money to resume operations? So you would have to get over that hurdle.

Then the next thing is—

Senator SPECTER. Well, how would you get over the hurdle? Borrow the money from the bankruptcy judge?

Mr. GUNN. Once you are in bankruptcy—

Senator SPECTER. I know their salaries. I know the Federal judges' salaries. They are the same as members of the Senate. I want you to know now that you will not be able to borrow money from the bankruptcy judge.

Mr. GUNN. No, no, we know that. What I am saying is there will be, the fiscal problem will still be there, but it will be in the hands of a trustee.

In terms of the practical effect of opening up, it depends how long you have been shut down. It will take days in any event. But

if you are shut down for an extended period of time, 2 weeks, 3 weeks, you begin to run into some serious problems.

Senator SPECTER. Have you started to run the complexities of shutting down with the bankruptcy court and advice of counsel as to what will happen and how long it will take you to get the wheels in motion before they are rusted shut, which is what I cautioned Stockman about in 1981?

Mr. GUNN. We have done the part about shutting down. That was the first step because we had to know how we would handle that. Today we started discussions among ourselves of how we can preserve the remnants of a management structure and a workforce that has the technical skills to run the railroad.

As I say, the longer you are out of business the longer it takes to get it back. But it is days, because if the railroad is shut down you have to go through a whole inspection process before you can reopen it. And it will be very expensive. This will cost you—there will be millions of dollars spent moving equipment around and placing it and storing it and preparing it for—

Senator SPECTER. Do you have a guesstimate about how much extra it will cost—

Mr. GUNN. Forty—

Senator SPECTER. Excuse me, let me finish the question—to shut down and then restart?

Mr. GUNN. Not to restart, but I can tell you it will cost us \$40 to \$50 million to shut down.

Senator SPECTER. But then if you restart, then what are those costs?

Mr. GUNN. Well, we do not have an estimate of that, Senator. What we know it will be significant, because your point is valid about the passenger loads will be reduced because people will have found alternative modes and methods of getting around.

Senator SPECTER. Well, Mr. Gunn, if you get this funding one way or another, how long will it be before you are back again with another emergency request?

Mr. GUNN. Well, the next request for funding would be for fiscal 2003, which starts, as you know, in the fall. The request that was made, that the Amtrak board made, was \$1.2 billion. Now, if we borrow \$200 million to get through the rest of this fiscal year, that leaves us \$1 billion for next year.

Senator SPECTER. Is \$1.2 billion the calculation for your operating losses for the year?

Mr. GUNN. No, I do not know how they made the calculation. I cannot—but I can get that for you. But I have not focused on that yet. But that is the number that they have requested, and I would say it could be characterized as the minimal amount we need to survive.

But the problem we have is that \$200 million of that will go to pay for the deficit in 2002. In other words, there will not be \$1.2 billion—

Senator SPECTER. You do not need any other words. I understand.

At one point there is going to have to be a calculation as to whether you can survive on what Congress is willing to give you.

Mr. GUNN. That is right.

Senator SPECTER. If we are looking at \$1.2 billion on operating losses each year—

Mr. GUNN. And capital.

Senator SPECTER. Capital expenses as well as operating?

Mr. GUNN. That is the total amount for next year.

Senator SPECTER. Well, at what point do you start to project efficiencies? Have you made a determination as to what efficiencies you can put into effect in the short term so that when you go to the Department of Transportation and urge them to make this loan to you, you say to them, if you do make this loan—Ms. McLean talks about reforms within the system, and it is no surprise to you that the Department of Transportation would talk about reforms. I am sure you have thought about that.

Do you have a plan for efficiencies, a word you use, and reforms to cut down your losses so that you can say to the Department of Transportation or to the Congress next year it will not be \$1.2 billion, but it will be some other figure significantly reduced?

Mr. GUNN. Oh, I do not think it will be significantly reduced. My challenge will be to produce a budget for fiscal year 2003 that fits within the \$1.2 billion.

Senator SPECTER. For the next year are there ideas you have which can produce that?

Mr. GUNN. Yes—well, not to reduce the \$1.2 billion. What I have to do is put together a budget, both capital and operating, that is clearly based upon the minimal amount of resources we need to run the company and try to get it back to the state of good repair in the case of cars and track and catenary.

It is clear that in starting to put the budget together, what I mentioned about streamlining the organization, that we had the ability to reduce a few hundred, hundreds, of management jobs and there is probably some represented jobs.

Senator SPECTER. How about some of the lesserly traveled routes?

Mr. GUNN. Well, I think our position, my position, is that we have a system, that there is a national system, and if I were to start cutting routes it would have very little impact; the way the labor protection laws work, there would be very little impact on next year's budget and it would create an enormous storm around our capability of getting funding.

In other words, the political reality of Amtrak is that they have tried—every time they try to eliminate routes, they ended up with an enormous firestorm, political firestorm. I think my time is best spent at this point in trying to improve the efficiency of the operation for the existing system and that is what I have set out as my own goal.

I think I can make a difference in terms of the efficiency of the operation. I think we will see an improvement. I think what we will end up with is we will be lucky if we can fit within the \$1.2 billion, which is actually \$1 billion for next year, given the capital deferrals and the maintenance deferrals that we have had.

But I cannot—at this point I cannot even tell you what our budget will look like. I know we will have a lot fewer administrative people in it because we are going through that exercise right now.

Senator SPECTER. Well Madam Chairwoman, I have held the fort until your return. My recommendation at this point is to ask only the indispensable questions so these folks can go back to work and find a way to keep the railroads running. Thank you.

Senator MURRAY. Thank you, Senator Specter.

Mr. Rutter, I understand while I was gone that you said DOT did not expect to be faced with such an urgent decision on whether Amtrak should survive. I just have to ask, how is that possible when Deputy Secretary Mr. Jackson has participated in every board meeting and every board conference call? I do not understand how that can be a surprise to this Administration.

Mr. RUTTER. It was only when Mr. Gunn took office that we were given financial projections that showed that the company was clearly not going to meet the task that had been set before them by the board. That kind of reporting had not been there before. So we were just as surprised as the other board members, and that is really distressing.

Had we been given information about this circumstance even a matter of weeks before we had been told about it, then we would have the ability to examine any number of possible options to consider how to gain access to that line of credit that Amtrak now says it has to have. But we are not there. We are where we are, and where we are is, based on what we know about how important Amtrak's service is and the consequences of not having that service, we are working as hard as we can to evaluate the application that has been put before us.

Senator MURRAY. Mr. Mead, should they have been surprised by this?

Mr. MEAD. Part of the story here—I do not think there has been a full exposition of the story on this. You will recall last year, we testified on the Penn Station mortgage. The Secretary joined the board and Amtrak left the clear impression that things were okay for Amtrak, that they were proceeding on the glidepath. Then not long thereafter it was announced that the railroad needed to mortgage Penn Station and the United States needed to subordinate its interest in Penn Station so they could get a loan that was secured.

This time around, the difference is—what is not a surprise is the amount of the money. That should not be—nobody should say they are surprised by that.

Senator MURRAY. The \$200 million?

Mr. MEAD. Yes, which is the amount needed to bridge them over until the new fiscal year.

What is the surprise is the loss of access to the credit markets, their unsecured line of credit. Tied up with that is the fact that under the covenants for their line of credit is a provision that by the end of the first quarter of a new fiscal year Amtrak have an audited set of financial books. They did not. Therefore, Amtrak itself was in technical breach of the covenants.

KPMG, their auditor, had not completed its audit by the end of the first quarter. There are two issues there. One of them has come out here today. It was the condition of the books, but now they have a set of—financial statements, which is good.

The other issue, though, that has been dragging on is what is known as a going concern opinion. An auditor is supposed to be

able to, when they render an opinion, opine on whether the concern being audited will be around, will make, it to the end of the fiscal year. In this case it has been only recently that it has become very clear that that line of credit is gone. The auditor in fact asked Amtrak to get letters from its lenders representing that they would provide the line of credit. They were not able to get the representation from the lenders, and that has precipitated this current situation.

Senator MURRAY. We are here and we are \$200 million short and we are considering a supplemental. If this Administration wants to make sure Amtrak keeps running, I assume we will either have a loan guarantee or a supplemental request by the middle of next week so that we can work with you to assure that Amtrak does not stop the trains. Is that correct?

Mr. Rutter? Ms. McLean?

I don't believe Mr. Mead said this I believe it was Mr. Rutter. I think we will certainly be discussing this with you all, with Congress, because this has got to be a joint effort.

I am going to turn to the long-term. We are going to run out of time fairly quickly, but there was a speech to a Chamber of Commerce this morning about long-term and we have heard word about reforms that need to be put in place and I want to walk through some of that. If the Administration is going to insist that reforms be part of a supplemental request, I think we better have some questions answered very quickly.

Mr. Rutter, I want to start with you. The recent economic downturn has really worked a huge hardship on the Federal budget, and the problem is even more pronounced out in our States, where 40 States are currently trying to find ways to close their own budget shortfall. Estimates are nearly \$40 billion for the States that are short.

I know in my State we are cutting everything from health insurance programs for kids to basic education, and States are laying off tens of thousands of employees as well. So given that situation, how does this Administration decide that now is the appropriate time to pass on a large portion of Amtrak's costs to the States?

Mr. RUTTER. What we have talked about as being a more sustainable long-term model of providing passenger rail is one that involves both States and the Federal Government. A lot of what has been—particularly if you look at descriptions or positions on providing enhancements to passenger rail service, most of those enhancements assume a 100 percent Federal role in providing the costs of that. We do not do that in any other mode of transportation. We think that decisions on whether to increase speeds, frequencies, the actual quality of service, should be made by the States and the Federal Government together, not solely on the part of the Federal Government.

We understand, however, and part and parcel of what we have outlined this morning and will continue to discuss with members of this Committee and all other stakeholders involved is an admission that what we have talked about, it is going to take some time to get there. As you have mentioned, not only are States facing those kinds of financial difficulties, but many of those States have

a myriad of financial schedules. Not everybody has the same fiscal year, not everybody has the same legislative schedules.

We certainly do not envision walking up tomorrow and telling everybody that the rules of the game have changed and by next week things are going to be different. What we are saying is that we need to work toward a situation where what we have now is not what we have in the future. Part of that is encouraging other States to make the same decisions that Washington, Oregon, California, North Carolina, Illinois, Pennsylvania, other States who have decided that passenger rail is an important part of their State transportation systems and that they are willing to invest in it.

We want to see a model which provides more encouragement for States to make that kind of decision and that States who make that decision are not penalized by other States not making the choice.

Senator MURRAY. Mr. Gunn, do you care to comment on States taking responsibility completely, as has been proposed?

Mr. RUTTER. Well, Madam, we have not talked about States taking responsibility completely for the passenger rail system. We have talked about that operating subsidies should be—the Federal Government should be weaned from those over time, but that the Federal Government should have a role in providing capital funding for that. So I beg your pardon, but I do not want to let our proposal be characterized as complete Federal abdication.

Senator MURRAY. I have not seen the written proposal. I have just heard the statement this morning.

Mr. RUTTER. That is my fault for not giving it to you.

Senator MURRAY. Mr. Gunn, do you care to comment on the States responsibility?

Mr. GUNN. As I said earlier, I do not know if you were in the room, Senator. I think it is important to have the same ground rules for funding for States for Amtrak services across the Nation, so that you do not treat States differently. I think that we have right now, we have a number of States, as you know, that do pay for Amtrak services. I think that the ability of the States to—and most of those are, obviously, intrastate, which means they tend to be in the big States or regions, California and in the Northwest and New York State and so forth.

I think that it is fine, the States should have a stake in the service. But I think on the capital side—you need to look at the numbers. In other words, you cannot argue the case unless you know the numbers. I think there has to be a proposal on the table. In transit, for example, there is a standard 80–20 capital—at least there was when I was in the business—80–20 funding arrangement, which it worked pretty well.

But unless you know the numbers, you cannot comment. I also think that, in the case of the rail network, the Federal Government has to take the lead. They cannot sit there and just be treated as a transit system, because transit systems tend to be local and one State is involved, although Metro is a little different, whereas a passenger rail network tends to involve a lot of States. For example, the Northeast Corridor goes from Massachusetts down to Virginia, or down to the District, anyway.

So I think that it is not analogous to transit. You need a heavier—you need a leadership role for the Federal Government, at least on some of these services. So I think they are right in saying that there should be rules to the game and there should be standards for the trains. The issue is what are the standards and what are the rules and how much money is going to be forthcoming, because this issue of capital—we have heard this, I have heard it, for years vis a vis Amtrak, that we will put in capital and take out operating funding. The operating funding was taken out; the capital did not show up in a lot of cases.

Senator MURRAY. Mr. Rutter, I mentioned in my opening statement Deputy Secretary Jackson told us 4 months ago that your budget request for \$521 million was a placeholder and that you would announce a different budget request once you laid out your long-term plan for Amtrak, which the Secretary did this morning. Am I correct that your budget request still has not changed one penny since your original request of \$521 million?

Ms. MCLEAN. The request has not changed, but we are willing to entertain an increase in that budget if, again, if it is paired with reforms.

Senator MURRAY. Is the Administration going to ask for that?

Ms. MCLEAN. We have not taken that or made that decision yet, but we can certainly consider it.

Senator MURRAY. Well, I assume then your request is still \$521 million?

Ms. MCLEAN. As we stated in the Secretary's statement and in Allan's testimony today, we are willing to increase it if we have additional reforms.

Senator MURRAY. Well, Mr. Warrenton said that an appropriation of \$521 million would put Amtrak into bankruptcy and Mr. Jackson did not contest him on that. I have to ask, Mr. Gunn, can you operate next year with an appropriation of \$521 million even if we enacted some of the reforms?

Mr. GUNN. No.

Senator MURRAY. Mr. Rutter, do you contest that view?

Mr. RUTTER. We recognize the shortcomings of \$521 as a number. But it is our, it is the Administration's contention that, whatever that appropriation amount is—and I do not pretend to understand the situation that the Committee finds itself in in figuring out how they are going to fit \$1.2 billion into the allocations that you get from the full Committee. But if we are talking about doubling what was appropriated last year, and since we find ourselves in the situation we find ourselves in now, we want to make sure that that kind of increase is accompanied by measures that lead us both into a situation where this company, this organization, does not keep coming back to us with: We have run out, we have not controlled our expenses, we have not made changes. That is not what we are interested in.

But we are and are willing to talk with this committee and with the House about a different number, but it has to be accompanied by a difference in how Amtrak does its business.

Senator MURRAY. In the reform policy that Secretary Mineta outlined this morning, it is clear that you intend to treat trains along the Northeast Corridor very different from the trains around the

rest of the Nation. It appears to me that you want States to pick up the costs of the Northeast Corridor trains over a very long transition period and for all the other trains you want States to pick up those costs right away.

For the last 10 years, taxpayers all over this country have invested billions of dollars in capital investments for the Northeast Corridor and its new Acela train service and at the same time Amtrak has spent comparatively nothing on capital improvements around the rest of the country. Why do you now want to put lesser requirements on the Northeast Corridor States than all the other States around the country?

Mr. RUTTER. Well, part of our plan is not to impose additional burdens on States immediately, but that we share your assessment that what happens in the Northeast Corridor should necessarily involve the cooperation and participation of those States that benefit from it, particularly given that Amtrak itself, while expected to fully fund and maintain all of that infrastructure, it is a minority user of that capacity.

We think that a more sustainable model in the long-term should involve all the participants, all the users, to share in those costs. But we do not pretend that that is going to be easy. To the extent that we talk about the need for making that a deliberative process is because it is going to involve so many different States, so many different legislatures. But we do believe that that decision needs to be made on how to create a sustainable public entity that controls and manages and builds that infrastructure.

It should not be the sole responsibility of the Federal Government, whose moneys come from all the rest of the country.

Senator MURRAY. Mr. Gunn, during our hearing 4 months ago with your predecessor, Mr. Warrenton, I took exception with his concept that if Amtrak receives less than \$1.2 billion next year that your long distance trains outside the corridor might be terminated while the Northeast Corridor trains will continue to operate. Do you subscribe to the view that you can phase down the railroad and just operate the Northeast Corridor trains next year?

Mr. GUNN. No, I do not. Just mathematically, forget whether you agree or disagree with keeping the long distance trains, you cannot cut Amtrak to health. In other words, you cannot make the corridor a viable corporation by cutting off the long distance trains. For a variety of reasons, it will not work. I do not subscribe to it.

Senator MURRAY. Do you think it is possible to transition the cost of the long distance trains to the States as early as October?

Mr. GUNN. By October this year?

Senator MURRAY. Yes.

Mr. GUNN. No, absolutely not.

Senator MURRAY. I will turn to Senator Kohl for his questions.

Senator KOHL. I thank you, Madam Chair.

This is an important and a timely hearing on the future of Amtrak. We have all read about Amtrak's recent announcement calling for an immediate infusion of \$200 million to keep the system running. I am hopeful that Amtrak can find a way to secure those funds in order to prevent layoffs and route eliminations.

As we look to the future, I am sure you would agree we need long-term solutions, a business plan that will provide national pas-

senger rail service that is viable for many years to come. But just as importantly, we need to hear from Amtrak what its plans are and how those plans will turn things around.

Our Nation's transportation system, including transit and aviation, cannot be complete, I think we all agree, without a good rail component. Rail has been at an economic disadvantage when compared to other modes of transportation because there is a history of an enormous amount of money being spent on improvements for roads and bridges. That directly benefits the automobile industry. The airline industry has also benefited from years of tremendous spending on improvements to airports and runways. Without that funding, automobile companies and airlines would simply be unable to be in business.

Last year \$41 billion benefited the transit and aviation industries while rail received nothing comparable, less than \$1 billion. I am not suggesting that Amtrak should receive funding equal to, of course, transit or aviation. However, if we expect our Nation to have a strong multimodal transportation system we must commit to keeping rail adequately funded.

I would like to hear from Mr. Gunn and Mr. Rutter, as well as our other panelists, on this whole issue of funding over the years, enormous funding over the years, at the expense of the public sector, to keep both automobile and aviation in a position to function and compete and make a profit, as compared to the conversation that is going around with respect to rail and what kind of funding, if any, or if at all very much, should be allocated to seeing to it that rail transportation in this country is able to maintain itself at some kind of at least an adequate level.

What is your thinking about that, Mr. Rutter, may I ask first?

Mr. RUTTER. Certainly those decisions in investing in other modes have been made by successive Congresses over a period of 3 to 4 decades, and most of those modes have their public investment supported by user fees paid by the users of those systems. We believe that an ongoing long-term commitment by the Federal Government is important to provide capital funding for passenger rail.

The problem with how do we get there from here is the fact that there is no similar user fee trust fund, nor is it easy to expect users, much fewer users, of a system to provide the capital to get there. But while we commit to work with the Amtrak over the long term to figure out where those dollars for capital assistance come from, we do believe that the ongoing sustainable future of passenger rail depends on Federal investment in capital in cooperation with State Governments, just as we make similar shared investments in capital in the aviation, transit, and highway business.

Senator KOHL. Mr. Gunn.

Mr. GUNN. Well, I think that the passenger rail system has been treated very poorly in this whole process. I will just give you one example, rather than a long-winded dissertation. If you look at what the Big Dig in Boston plus what they have done to Logan Airport is going to cost when they are done, it will almost equal all the subsidies we have ever received, and all they have done is move a highway from here [indicating] to here [indicating].

Senator KOHL. That is very true.

Mr. GUNN. We are not treated equally.

Senator KOHL. You know, Mr. Rutter, with respect to your comment, which of course was not meant to be adversarial, but you pointed out the fact that when it comes to automobile and aviation much of that money comes from users. But it is still public funds. It is not as though the automobile companies have come up with the money for the roads or the airline companies have come up with the money for their airports. It comes from the public. Public tax dollars, public user fees, but it is public moneys, and the automobile companies could not do that on their own. Obviously, they would be out of business if they had to build the roads and maintain the roads, as would the airlines.

So I think the argument is very strong that rail deserves some kind of a comparable consideration. In fact, I do not see how one can avoid either accepting that or rejecting the concept of using taxpayer money or public funds for roads, bridges, and airports. I do not see how one could make the case that one makes sense and the other does not make sense. I do not think so.

What do you think?

Mr. RUTTER. Well, I would probably defer to the rest of the committee's time. Given my background as a publicly educated, trained bureaucrat and a policy wonk, I could probably talk to you about those kind of issues for a long, long time, and would be happy to do so.

But the simple answer is maybe one of the reasons why we find ourselves in a slightly different situation with railroads, passenger railroads, is that over time, particularly over the last 50 to 75 years at least, it has been part of a tacit national transportation policy that railroads be provided and funded and owned privately. The creation of Amtrak 30 years ago was an admission that passenger service on its own does not meet that model. But why we find ourselves in a place where that mode is treated differently is in large part an historical fact of how those businesses came to and are continuing to be operated.

Senator KOHL. Ms. McLean, would you like to make a comment?

Ms. MCLEAN. I think Allan mentioned before about the user fees. I think that has long been the issue with aviation and highway, is that those are user fee-based trust funds. Those trust funds were established for capital investment and for the most part that is primarily how highways are funded, through those user fees, and primarily how aviation, not totally but primarily, how aviation is funded.

I do not think passenger, intercity passenger rail service, could be supported by any kind of trust fund. So I certainly would not encourage that type of structure. But that obviously puts highways and aviation at an advantage.

Senator KOHL. Mr. Mead?

Mr. MEAD. About 23 million people ride Amtrak every year and that is a lot less than you have in cars and you have in aviation. Probably a lot of the 23 million are repeat riders. I think the constituency for rail in a lot of quarters is not as robust as it is for automobiles and aviation. I would agree with the comments of the other panelists that moving towards an analogy to say, well, we charge people a ticket tax in aviation, let us do that in trains and that is a solution, well, that is not the solution. You are going to

have to make a judgment that for the public welfare, public funds should be applied robustly to rail to make it work.

Senator KOHL. Well, obviously you know where I am coming from from my comments. That there needs to be a discriminate use of funds to keep rail or to maintain and keep rail healthy in this country. To me, the alternative, which is to maybe let it atrophy and in most cases even die, is not smart, I do not think. It is not a good public policy judgment in my opinion. I hope very much that we can persuade the Congress as well as the administration that this makes good sense.

Thank you.

Senator MURRAY. Thank you very much, Senator Kohl.

Mr. Rutter, one more question for you. As I follow your testimony, you want the States to absorb most, if not all, of the operating costs of Amtrak's trains outside of the Northeast Corridor. Within the Northeast Corridor you want a new partnership where the States absorb an increased cost share of both operating and capital costs. Mr. Mead pointed out in his testimony in just 5 years Amtrak's outstanding debt has grown from \$1.7 billion to \$4.4 billion. I am curious. Under the new Administration's proposed arrangements, who is going to pay off Amtrak's debt?

Mr. RUTTER. Well, it is not only who is going to pay off Amtrak's debt, but who is going to catch up on the backlog of deferred maintenance to keep what is there operating, which we acknowledge to be at least between \$5 and \$6 billion. Getting to a situation where those kinds of investments are made over time, our point is that that scale of investment should not be solely a matter of Federal responsibility, for the reasons that I think you have articulately made, that the region that primarily benefits from that, those services, should have some partnership role in providing for making that work.

Senator MURRAY. Mr. Gunn, I have one more question for you. Secretary Mineta made a major policy announcement this morning regarding the future of your railroad. He made a lot of observations about the way your railroad functions and what changes he feels need to be made. Have you ever had one live conversation or phone conversation about your railroad with Secretary Mineta since you took over your position 5 weeks ago?

Mr. GUNN. No.

Could I make one last statement?

Senator MURRAY. Absolutely.

Mr. GUNN. I just want to remind everybody that the cost of any shutdown and startup is going to be more than \$200 million.

Senator MURRAY. Any shutdown or startup?

Mr. GUNN. And startup. In other words, if we actually shut down and then you want to start us up, it is going to cost you more than \$200 million, I think, or it will be darn close.

Senator MURRAY. I appreciate that comment. I just want to make one more thing clear before I recess and that is that the Administration has not submitted any reform legislation to this Committee or to any other committee of Congress. All we have had so far is a speech. The proposals in the speech, as you can see from this hearing, are very controversial. There is no way that we are going to include any such proposals in a supplemental request.

If the Administration wants reforms they need to propose them in legislation to the authorizing committee. If they are going to approve a loan guarantee, this Committee wants to be informed immediately. If they are going to make a supplemental request, that needs to be done very quickly.

CONCLUSION OF HEARING

With that, I will conclude this subcommittee to the call of the Chair.

[Whereupon, at 3:52 p.m., Thursday, June 20, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

